

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Jul 22 2022**

**S.C. SUPREME COURT**

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Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge  
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GREGORY S. GREENE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001470  
\_\_\_\_\_

APPENDIX  
\_\_\_\_\_

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1 STATE OF SOUTH CAROLINA ) IN THE COURT OF  
 ) GENERAL SESSIONS  
 2 ) OF THE SEVENTH  
 COUNTY OF SPARTANBURG ) JUDICIAL CIRCUIT  
 3 )  
 )  
 4 )  
 STATE OF SOUTH CAROLINA, )  
 5 )  
 Plaintiff, ) TRANSCRIPT OF RECORD  
 6 ) 2018-GS-42-06802  
 vs. ) 2018-GS-42-06802A  
 7 ) 2018-GS-42-06803  
 GREGORY SCOTT GREENE, )  
 8 )  
 Defendant. )  
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June 24, 2019  
 Spartanburg, South Carolina

B E F O R E:  
 HONORABLE LEE S. ALFORD, Judge.

A P P E A R A N C E S  
 BARRY J. BARNETTE, SOLICITOR  
 For The State  
 ANDREA L. PRICE, ESQUIRE  
 For Defendant

Julie A. Cendroski,  
 Circuit Court Reporter  
 Seventh Judicial Circuit

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1           STATE OF SOUTH CAROLINA VS. GREGORY SCOTT GREENE

2           (State's Exhibit Number 1, Incident Report  
3 Packet, was marked for identification.)

4           (State's Exhibit Number 2, Body Cam Video Of  
5 Officer Hall, was marked for identification.)

6           (State's Exhibit Number 3, Firearms Trade  
7 Summary, was marked for identification.)

8           (State's Exhibit Number 4, SLED Report, was  
9 marked for identification.)

10           (State's Exhibit Number 5, Picture Packet, was  
11 marked for identification.)

12           (State's Exhibit Number 6, Rap Sheet, was marked  
13 for identification.)

14           MR. BARNETTE: May it please the Court, Your  
15 Honor?

16           THE COURT: Yes, sir.

17           MR. BARNETTE: This is the case of The State  
18 versus Gregory Scott Greene, Your Honor. He's pleading  
19 guilty on the following two indictments, Your Honor.

20 There's two counts on one indictment and one count on  
21 the other. The first one is 18-GS-42-6802, Your Honor.  
22 He is pleading guilty to attempted murder on count one.  
23 And then possession of a weapon during a violent crime,  
24 count two, Your Honor, on that indictment.

25           The second indictment, Your Honor, is

1 18-GS-42-6803, Your Honor. That one is for kidnapping,  
2 Your Honor. Both of these have been true billed to the  
3 grand jury, Your Honor. This is a straight up plea,  
4 Your Honor. There is no negotiations or recommendations  
5 on this case, Your Honor.

6 I will tell you the kidnapping, it's non-sexual  
7 in nature, so that will not apply in this case on the  
8 kidnapping involved in that part, Your Honor. I do have  
9 six exhibits, Your Honor. I've shared that with the  
10 defense, Your Honor. I'd like to enter those at the  
11 appropriate time, make those a part of the facts and  
12 evidence in the case, Your Honor. And I do have victims  
13 who would like to address the Court at the appropriate  
14 time also, Your Honor.

15 THE COURT: Yes, sir.

16 MR. BARNETTE: May I approach the bench, Your  
17 Honor?

18 THE COURT: Yes, sir.

19 MR. BARNETTE: And Ms. Andrea Price represents  
20 the defendant, Your Honor. And, Your Honor, I believe  
21 the kidnapping is a direct indictment. I believe  
22 they've waived presentment of that indictment, Your  
23 Honor.

24 THE COURT: Say it again, Solicitor, with regard  
25 to the kidnapping charge, it has been true billed by the

1 grand jury, they need to waive presentment, is that what  
2 it is?

3 MR. BARNETTE: Yes, sir. I believe he made the  
4 arraignment, but I just want to double check to make  
5 sure that he's waiving arraignment on that charge, Your  
6 Honor.

7 THE COURT: Okay. It's your position with regard  
8 to an arraignment, he --

9 MS. PRICE: He does.

10 THE COURT: -- waives arraignment?

11 MS. PRICE: Your Honor, it's not necessary for  
12 arraignment. I've been over the allegations. I've  
13 received a copy of the indictment. I have discussed it  
14 with my client and that's just a formality we are going  
15 to waive. He's fully aware of the consequences and the  
16 elements of the kidnapping.

17 THE COURT: All right. Sir, you're Gregory Scott  
18 Greene; is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Greene, how old are you, sir?

21 THE DEFENDANT: Fifty-two.

22 THE COURT: Madam Clerk, has he been sworn?

23 THE CLERK: No, sir, he has not.

24 Raise your right hand. (Complies.)

25 Do you swear or affirm the testimony you'll give

1 will be the truth, whole truth, and nothing but the  
2 truth so help you God?

3 THE DEFENDANT: Yes, ma'am.

4 THE CLERK: Thank you.

5 THE COURT: Again, you're Gregory Scott Greene;  
6 is that right?

7 THE DEFENDANT: That's correct.

8 THE COURT: And you're 52 years old, Mr. Greene?

9 THE DEFENDANT: That's correct.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: High School.

12 THE COURT: What do you do for a job or  
13 occupation?

14 THE DEFENDANT: I was a licensed general director  
15 embalming.

16 THE COURT: Are you married, sir?

17 THE DEFENDANT: No, sir.

18 THE COURT: Do you have any children under 18?

19 THE DEFENDANT: No, sir.

20 THE COURT: How much time have you served in jail  
21 on these charges?

22 THE DEFENDANT: Nine months.

23 THE COURT: Nine months?

24 THE DEFENDANT: Yes, sir. Well 228 days, sir.

25 THE COURT: Okay, thank you.

1           Solicitor, tell me on attempted murder this is,  
2 of course, new as opposed to the old assault and battery  
3 and high -- assault and battery with intent to kill, but  
4 what's the maximum penalty on that?

5           MR. BARNETTE: Zero to 30 years, Your Honor.

6           THE COURT: Zero to 30.

7           MR. BARNETTE: And it's a no parole offense, Your  
8 Honor.

9           THE COURT: And serious, most serious?

10          MR. BARNETTE: It's most serious, Your Honor, and  
11 it's violent also, Your Honor. And the kidnapping's the  
12 same way, Your Honor. It's most serious as well as  
13 violent and it's also a no parole offense.

14          THE COURT: Okay. And what's the maximum  
15 sentence on the kidnapping?

16          MR. BARNETTE: 30 years, Your Honor.

17          THE COURT: 30 years. Two to 30, isn't it? No,  
18 no, just 30?

19          MR. BARNETTE: It's zero to 30, Your Honor.

20          THE COURT: All right. Be sure I'm right about  
21 that, Mr. Greene. Mr. Greene, again, you're charged  
22 with attempted murder which carries a maximum punishment  
23 of 30 years. It's a no parole offense, which means  
24 you'll be expected to serve whatever sentence you  
25 receive on that particular charge. Do you understand

1 that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: You're also charged with kidnapping  
4 which also carries a maximum punishment of 30 years, and  
5 it's also a no-parole offense. You'll be expected to  
6 serve whatever sentence you receive on that particular  
7 charge. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, these offenses are classified as  
10 most serious offenses. And the importance of that is  
11 should you get another most serious offense in the  
12 future with these on your record or a serious offense on  
13 your record, with these on your record, you could get a  
14 sentence of life without parole, so called two strikes  
15 with most serious offenses and three strikes with three  
16 serious and most serious offenses on your record. Do  
17 you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Understanding all of  
20 that, how do you wish to plead to these three charges?  
21 Well, in so far as the possession of a firearm during  
22 the commission of a felony, it carries a maximum  
23 punishment of five years. And it's also, all three of  
24 these are classified as felonies. Do you understand  
25 that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, understanding all that, how do  
3 you wish to plead to these three charges today, guilty  
4 or not guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: Do you understand that by pleading  
7 guilty you give up your right to remain silent?

8 THE DEFENDANT: That's correct, yes, sir.

9 THE COURT: Do you understand that by pleading  
10 guilty you give up your right to a trial by jury?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And if you give up your right to a  
13 trial by jury, you also give up your right to assert any  
14 legal defenses you might have in a jury trial?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, I know your attorney's gone over  
17 that right with you and I'm gonna do so as well. If you  
18 requested a trial by jury, the State would give you a  
19 trial. At trial you'd have the right to confront,  
20 cross-examine all witnesses against you. You would have  
21 the right to present any witnesses and their evidence in  
22 your own defense. You would have the right to testify  
23 in your own defense if you wish to do so, but no one can  
24 make you testify in your own trial.

25 If you decide to go to trial and not testify, the

1 judge will tell the jury they could not hold your  
2 failure to testify against you. In fact, the jury  
3 couldn't even consider your failure to testify in their  
4 deliberations on your guilt nor innocence. You would be  
5 presumed innocent throughout your trial.

6 The State would have to prove you guilty beyond a  
7 reasonable doubt to a jury of 12 people. All 12 people  
8 would have to unanimously agree that you were guilty in  
9 order for you to be convicted. Even if you were  
10 convicted, you'd still have the right to appeal that  
11 conviction. Do you understand your rights with regard  
12 to a trial by jury?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Understanding that right, do you  
15 still want to plead guilty or do you want me to set your  
16 cases for trial?

17 THE DEFENDANT: Guilty, sir.

18 THE COURT: Now, has anybody promised you  
19 anything or held out any hope or reward to you in order  
20 to get you to plead guilty to these three charges?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you satisfied with the manner in  
23 which your attorney has advised and represented you in  
24 these cases?

25 THE DEFENDANT: Yes, sir.

1           THE COURT:  Have you and your attorney fully  
2 discussed the charges against you?

3           THE DEFENDANT:  Yes, sir.

4           THE COURT:  Has your attorney told you the  
5 witnesses and evidence the State has available to  
6 present at trial to prove your guilt?

7           THE DEFENDANT:  Yes, sir.

8           THE COURT:  Has your attorney discussed with you  
9 any possible legal defenses that might be available to  
10 you if you were to go to trial?

11          THE DEFENDANT:  Yes, sir.

12          THE COURT:  Have you told your attorney the names  
13 of any and all witnesses you know of that your attorney  
14 could subpoena and bring to trial to assist you in your  
15 defense if you were to go to trial?

16          THE DEFENDANT:  (Nods head up and down.)

17          THE COURT:  Are you today under the influence of  
18 any mind altering substances such as alcohol, drugs or  
19 prescription medications which interfere with your  
20 judgment or ability to understand what you're doing in  
21 court?

22          THE DEFENDANT:  No, sir.

23          THE COURT:  Do you have any mental, emotional, or  
24 nervous condition that interferes with your judgment or  
25 ability to understand what you're doing in court today?

1 THE DEFENDANT: No, sir.

2 THE COURT: Are you pleading guilty today of your  
3 own free will?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Are you in fact guilty of these three  
6 offenses?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Please give him the facts, Solicitor.

9 MR. BARNETTE: Your Honor, just one thing. I  
10 heard you ask him about defenses and I couldn't hear  
11 what his answer was to that.

12 THE COURT: He said that she had explained, had  
13 gone over defenses with him. Isn't that correct? I  
14 mean, he looked at her but then he answered that.

15 MR. BARNETTE: Yeah, and I -- he understands he  
16 waives any defense that he may have?

17 THE COURT: Oh, I think he -- you do understand  
18 that, don't you Mr. Greene? By pleading guilty, you  
19 waive any possible defense you might have in a trial?  
20 You understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right, sir.

23 MR. BARNETTE: Okay, no problem. Thank you, Your  
24 Honor. I just wanted to clarify that.

25 THE COURT: Sure.

1           MR. BARNETTE: Your Honor, I do have six  
2 exhibits. Exhibit 1, Your Honor, is 23 pages. It  
3 consists of the incident report in this case. And  
4 there's two written statements, Your Honor, made by Mr.  
5 Hutchins, the victim in this case, as well as Mr.  
6 Peittinger. He was also a witness in the case that's  
7 included with that.

8           State Exhibit 2, Your Honor, is actually a body  
9 cam video of Officer Hall. He has two different ones,  
10 one when he went to the scene. And the second one is  
11 when Investigator Cheeks interviewed the defendant. He  
12 actually gave him a Miranda, Your Honor, made sure he  
13 understand it. You can watch the video and you can see  
14 that on there, Your Honor. I'll go into more detail  
15 when I go into the facts.

16           State Exhibit 3, Your Honor, is the firearms  
17 Trade Summary where the AR-15 that was used in this case  
18 was purchased by the defendant, Your Honor, in 2012.

19           State Exhibit 4, Your Honor, is the SLED report,  
20 firearm report where there was an unfired bullet there,  
21 Your Honor, that came from that gun that was used there,  
22 from that standpoint, Your Honor. Unfired cartridge,  
23 Your Honor, that was fired there, as well as a test  
24 specimen in this case. And one fired cartridge casing,  
25 Your Honor in front of there, Your Honor.

1           It was determined it could have been fired but  
2 one or similar characteristics in that case, Your Honor.  
3 Two was similar to that, Your Honor. And they looked at  
4 the AR-15 that was taken, Your Honor. It was examined  
5 by SLED in this case.

6           State Exhibit 5, Your Honor, is pictures from the  
7 scene, Your Honor, showing the funeral home, Eggers'  
8 Funeral Home in this case, as well as text messages that  
9 was sent by Mr. Hutchins to Mr. Pittinger about what was  
10 happening inside the funeral home, as well as evidence  
11 that was taken, Your Honor, as well as the defendant's  
12 truck. The AR-15 that was found, Your Honor.

13           The clips that he had with him, with the  
14 ammunition inside those clips, Your Honor. As well as  
15 the shot that was shot in the funeral home. You'll see  
16 where the clock, where it was fired, Your Honor, in this  
17 case, Your Honor, from there.

18           State Exhibit 6, Your Honor, is the rap sheet of  
19 the defendant in this case. I'd like to move all these  
20 into evidence at this time, make them a part of the  
21 facts of the case. And I don't think there's any  
22 objection from the defense on that, Your Honor.

23           MS. PRICE: All of that has been shared with me  
24 and I've shared it with my client as well, so there's no  
25 objection.

1 THE COURT: Admitted without objection.

2 (State's Exhibit Numbers 1-6 were admitted into  
3 the record.)

4 MR. BARNETTE: Okay. Your Honor, this did occur  
5 in Spartanburg County. It happened on November 8th,  
6 2018, Your Honor. Approximately 7:48 a.m. is when it  
7 started, Your Honor. From that standpoint, continued on  
8 through 8:30 up to 9:16 a.m., Your Honor. It was 815  
9 South Alabama Avenue, Chesnee, South Carolina in  
10 Spartanburg County, Your Honor.

11 What happened was Mr. Gerald Hutchins went --  
12 Hutchison [sic] went inside the -- he worked there, Your  
13 Honor. What had happened was the defendant was a past  
14 employee. He had quit or left the employment there and  
15 he was disgruntled from that standpoint, Your Honor.  
16 I'll read Officer Cheeks' notes on this, Your Honor.  
17 Like I said, this is on the interview there.

18 (Reading.) Afterwards he met with him,  
19 Mirandized him and everything. He went and spoke to the  
20 defendant, Your Honor. Was detained in the back of a  
21 patrol vehicle. He was identified as Mr. Greene. He  
22 was read his Miranda Rights off his Miranda card, Your  
23 Honor. Greene stated he understood his rights and he  
24 wished to speak to me.

25 He stated he was fired from Eggers' Funeral Home

1 by Ms. Eggers' around October 4 of 2018, Your Honor.  
2 Greene stated on that day he wanted to come back and do  
3 the same thing he did today, which was November 8th,  
4 2018. I asked him why did he decide to do it this day,  
5 in which Greene responded there's no particular reason,  
6 he just built up the nerve to do it and it was a stupid  
7 decision. Greene was disgruntled by a separation from  
8 the business and felt like he was treated unfairly.

9           Greene stated this morning he left his residence  
10 where him and his cat reside, Your Honor. Came to the  
11 funeral home. He stated he left the residence, brought  
12 his AR-15 with him, Your Honor. Stated when he arrived  
13 at the business, he unlocked the rear door with a key  
14 that he had since he was employed there, Your Honor. He  
15 turned off the alarm system. Went back to his truck to  
16 retrieve his rifle, which is the AR-15.

17           He sat in the lobby area with the rifle until  
18 Gerald Hutchins came into the business, Your Honor. He  
19 stated when Mr. Hutchins entered the business, he raised  
20 the rifle, pointed it at him, Your Honor. Greene, he  
21 pointed the rifle at Hutchins, pulled the trigger and  
22 the rifle did not fire. It actually misfired, Your  
23 Honor. Hutchins stated he heard the click. That made  
24 the light bulb go out until he entered the room, saw  
25 Greene with the Rifle.

1           Greene said he's cleared the rifle with the  
2 misfired bullet. The chamber nerve bullet ultimately  
3 fired into the floor of the business or actually went  
4 through the clock. (Ends reading.) And you'll see  
5 those pictures there. And there was a -- it might have  
6 been a glance, but there was a shot that was definitely  
7 fired inside the funeral home, Your Honor.

8           (Reading.) Hutchins stated they went to the  
9 front door, exited the business, when he saw law  
10 enforcement. (Ends reading.) At this time, Your Honor,  
11 he was texting Officer Pittinger. And I've got his  
12 statement about what occurred. And he's also here and  
13 would like to address the Court at the appropriate time,  
14 Your Honor.

15           They have video surveillance from inside the  
16 business, Your Honor. They viewed it on the scene. It  
17 gave the statements given by Greene, Your Honor, in this  
18 case. And we do have those and supplied those to the  
19 defense, Your Honor, from that situation. I do have  
20 Mr. Hutchins' statement. I can read that to Your Honor  
21 also. And, like I say, he can go from there.

22           (Reading.) He said he came in the back door, he  
23 heard a click and turned on the light and saw the  
24 defendant Greene sitting in the back port area pointing  
25 a gun at him, Your Honor. He was wearing a gray hoodie

1 pulled over his head and jeans. He said it jammed. I'm  
2 not gonna shoot you, but do not call the police or I  
3 will. He said it's not jammed anymore and shot into the  
4 floor, Your Honor. He said, I will wait on Jan. (Ends  
5 reading.)

6 Jan, I believe, was a relative. One of the  
7 employees that was sick at the time there, Your Honor.

8 (Reading.) I told him that Jan would not be here  
9 today. He said, I will go down the street and shoot  
10 them. I said, don't do that, you'll go to jail. He  
11 said, no, I want to. I will shoot them and they will  
12 shoot me. (Ends reading.)

13 Which later on Mr. Cheeks was talking about the  
14 police department, Your Honor, the sheriff's department.

15 (Reading.) I asked him if I could help in any  
16 way. He said, I have a little bit of money. Mr.  
17 Hutchins said, I have a little bit of money. He said he  
18 had about \$14 that he could have. And then Mr. Greene  
19 said that won't do him any good, I'm up the shit creek,  
20 Your Honor. Or shit creek is what he said. (Ends  
21 reading.)

22 Basically he was able to get his phone out, Your  
23 Honor, and started texting Tim Pittinger. And we've got  
24 those texts back and forth. You can see pictures of  
25 those, Your Honor. And Betty ---

1 THE COURT: Who's texting who?

2 MR. BARNETTE: Hutchins. He actually got his  
3 phone out and was texting from inside while he was ---

4 THE COURT: I just want to make sure the record  
5 is clear.

6 MR. BARNETTE: Yeah, it was. It was the victim  
7 in this case, Your Honor. I apologize reading it,  
8 trying to read it to you.

9 Then Tim Pittinger called Betty Eggers, which was  
10 the owner, Your Honor. And then text and said Greg was  
11 here with a gun. And kept texting Pittinger, Your  
12 Honor. The police showed up, surrounded him, Your  
13 Honor, at that time. Mr. Pittinger also gave a  
14 statement. It's also attached to these incident reports  
15 from that, Your Honor. You're welcome to read that.

16 In this case he basically verifies that the video  
17 from inside the funeral home verifies that, Your Honor.  
18 His statement he made to the police verifies that. He  
19 also made the statement that he wanted to kill Betty, so  
20 she was -- I don't know if they had some -- I'm sure she  
21 can go into that. And she'd like to address the Court  
22 at the appropriate time, Your Honor, in this case.

23 The sheriff's department arrived, Your Honor. He  
24 tried to leave in his truck. They stopped him in his  
25 truck and took him into custody at that point, Your

1 Honor. In the truck was the AR-15. I have pictures of  
2 that, Your Honor, as well as the ammunition in there.

3 We do have one bullet or shell casing, whatever,  
4 where you see the pin hit but it misfired. It didn't  
5 fire. So we do have pictures of that in this case, Your  
6 Honor. If I can hand these up to you and let you look  
7 at them.

8 THE COURT: Tell me what you're relying on, on  
9 the kidnapping.

10 MR. BARNETTE: Kidnapping, Your Honor, is  
11 basically, you know, obviously he couldn't leave. He  
12 told him, said, you know, said I will kill you if you  
13 call the police or whatever and he held him against his  
14 will there, Your Honor.

15 THE COURT: Okay.

16 MR. BARNETTE: In that case, basically you just  
17 have to seize somebody and obviously he was seized at  
18 that time.

19 THE COURT: Right.

20 MR. BARNETTE: Even though he was able to get out  
21 and text that from that standpoint, he said, you know,  
22 you call the police, do anything like that I will kill  
23 you. And he shot a bullet, showing that he could shoot  
24 the weapon once it had jammed on him from that  
25 standpoint.

1           And, like I said, I've moved these into evidence  
2 and would like to pass these up to you at this time,  
3 Your Honor.

4           (Hands documents up to the Court.)

5           And just to clarify, Your Honor, the firearms,  
6 they said the shell casings could be consistent with but  
7 do not say it was actually shot by that weapon. And you  
8 can see that on item three, they talk about the  
9 cartridge casing, Your Honor, and it could easily -- it  
10 could have been fired from that weapon, it could have  
11 been fired one-cylinder characteristics. I just wanted  
12 to clarify that on the record.

13           THE COURT: Anything else, Solicitor?

14           MR. BARNETTE: I do have two victims that would  
15 like to address the Court.

16           THE COURT: I'm sure I'll hear from them. Let me  
17 go back to Mr. Greene now.

18           Now, Mr. Greene, you've heard the facts recited  
19 to the Court by the solicitor's officer as to what  
20 happened in this case. Do you disagree in any way with  
21 what they say happened?

22           THE DEFENDANT: At some point, sir. I didn't say  
23 as far as I was gonna kill the cops if they came or I  
24 didn't say anything to that effect, sir. That needs to  
25 be scratched.

1           THE COURT: I think that he said you would kill  
2 somebody and then the cops would kills you, I think is  
3 what he said.

4           THE DEFENDANT: Well, that's what I had thought  
5 at the time, sir.

6           THE COURT: Okay.

7           THE DEFENDANT: Yes, sir. I wasn't thinking very  
8 clearly.

9           THE COURT: Is there anything else they say that  
10 you disagree with?

11          THE DEFENDANT: No, sir.

12          THE COURT: I find the decision of the defendant,  
13 Gregory Scott Greene to plead guilty to these three  
14 charges to be made freely, voluntarily, and  
15 intelligently. He's had the representation of a  
16 competent attorney with whom he says he is satisfied. I  
17 find the facts presented to the Court by the solicitor's  
18 office concurred in by the defendant fully support the  
19 pleas in this case, and I'll accept the pleas as freely  
20 and voluntarily made.

21          Now, Mr. Greene, if you disagree with the  
22 proceeding in which we're currently involved, you have  
23 ten days from today's date within which to file a  
24 notice of intent to appeal. Do you understand your  
25 right to appeal today's proceeding?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. I'll be glad to hear from any  
3 victims who wish to speak before I hear from defense  
4 counsel.

5 MR. BARNETTE: Your Honor, I'm gonna have  
6 everybody stand that's here on behalf of the victim in  
7 this case. If they would just stand first. And, Your  
8 Honor, I'd like have Ms. Eggers and Mr. Hutchins just  
9 come on and approach if they're gonna address the Court.

10 THE COURT: Sir, if you would, give us your full  
11 name for the record.

12 MR. HUTCHINS: My name is Gerald Williams  
13 Hutchins.

14 THE COURT: Yes, sir, Mr. Hutchins.

15 MR. HUTCHINS: Your Honor, on the morning of  
16 November the 8th, 2018, my life was changed forever  
17 because Mr. Greene made the conscious decision to enter  
18 the funeral home and commit premeditated murder. It did  
19 not matter to him who entered the building first. It  
20 was apparent when he pointed the AR-15 at my head and  
21 pulled the trigger.

22 If not for the hand of God sheltering me that day  
23 I would be dead, my wife would be -- my wife a widow and  
24 my children would be without a father. I would never  
25 experience a future with my family, graduations,

1 marriages and grandchildren all because one person, Mr.  
2 Greene, chose to quit his job, stay home, and drink  
3 himself into oblivion each day.

4           Mr. Greene showed no remorse in his actions on  
5 several occasions as he held me hostage. He told me  
6 that if I tried to call the police that he would kill me  
7 anyway. The past seven months have not been easy on me  
8 and my family. My wife and I have had restless,  
9 sleepless nights filled with nightmares that are only  
10 alleviated with medication prescribed by a family  
11 physician.

12           My daily routine has been deeply affected. I am  
13 unable to walk into an unlit room. We still sleep with  
14 several night lights on and being unable to enter my  
15 place of work without first driving around the building  
16 to make sure there is no one there. That has become  
17 part of my daily routine.

18           As I think back to that day, I know that Mr.  
19 Greene knew exactly what he was planning to do, to enter  
20 the building before opening hours. He turned off all  
21 the lights, armed himself with an assault rifle and  
22 waited for his victims. I can't help but wonder what  
23 would have happened if the gun had not jammed. When  
24 would the killings have stopped? Everyone that entered  
25 the building that day would have been a target and no

1 one would have escaped his wrath.

2 Your Honor, I know that you will base your  
3 sentence on the law, but I would just like to say that I  
4 feel Mr. Greene should receive the maximum sentence. He  
5 willingly and knowingly planned to commit murder. If he  
6 is released, who is to say that he will not once again  
7 begin to drink and his vicious cycle will begin again  
8 only this time his victims might not be as lucky. He  
9 deserves the maximum penalty.

10 THE COURT: Thank you, sir.

11 Yes, ma'am. Please give us your name for the  
12 record.

13 MS. EGGERS: Sir, I am Betty, Betty Ragan Eggers.  
14 I own the funeral home. And I was on my way to work  
15 that morning when I got word that Mr. Greene was there  
16 with a gun. He quit his job on his own. I had asked  
17 him to come in on his day off. We were very busy. I  
18 had people on vacation. Then he becomes very dependent,  
19 I think, on alcohol. And from the video that I saw at  
20 work that day he was in a stupor. He was so drunk he  
21 could have taken this man's life, mine, any of the rest  
22 of us.

23 I've known this man for 30 years, just about.  
24 This is hard in more than one way. I wished he hadn't  
25 made the decision he made, but he did. He done it on

1 his own. He could have made Gerald, his wife a widow,  
2 his children not have their daddy. I just think he  
3 deserves the maximum penalty that he can get.

4 He knows where we all live if he ever gets, gets  
5 out of jail. I fear for my life. I fear for Gerald and  
6 anybody else who works there. To me he's disgruntled  
7 over something he done to himself. We didn't do it to  
8 him. He's the one who quit. He's the one that made  
9 that decision.

10 I'm so sorry. I just ask you to please take into  
11 consideration what could have happened. And if he's  
12 ever allowed to be out again what might happen in the  
13 future. That's what I have to say, Your Honor.

14 THE COURT: Thank you, ma'am.

15 Counsel?

16 MS. PRICE: Thank you, Your Honor.

17 MR. BARNETTE: Your Honor, one thing I just  
18 remembered, too.

19 THE COURT: Yes.

20 MR. BARNETTE: The possession of a weapon carries  
21 up to five years and that's day-for-day. I didn't know  
22 if you had went over that.

23 THE COURT: Yeah. I think I went over that with  
24 him.

25 MR. BARNETTE: Okay.

1           THE COURT: Five years, day-for-day, it's a  
2 felony.

3           MR. BARNETTE: Yes, sir. Thank you.

4           THE COURT: Yes, ma'am.

5           MS. PRICE: Thank you, Your Honor. Mr. Greene's  
6 52 years old. He is native of the Campobello area of  
7 Spartanburg County. He graduated from Landrum High  
8 School. He has been in and around the mortuary business  
9 since he was 15 years old. He graduated from mortuary  
10 school in 1992 and the Monday after graduation went to  
11 work at the Bar Salone Mortuary in Chesnee for Mr. John  
12 Eggers. Mr. Eggers is Mrs. Eggers, who you just heard  
13 from, her late husband. Bar Salone was eventually a  
14 number of years later bought by Mr. Eggers and Mrs.  
15 Eggers. It's now known as Eggers Mortuary. It's the  
16 same one that we're talking about today.

17           He also worked at Pokemon Union for about 12  
18 years before he came back to work for Mr. Eggers back in  
19 2010. And things were going pretty well for him until  
20 about 2016. In 2016 his 80-year-old mother became ill  
21 and eventually died, around about the same time as Mr.  
22 Eggers died.

23           During the time I've been representing Mr.  
24 Greene, he has had nothing but wonderful kind things to  
25 say about Mr. Eggers. I live in this community as well.

1 I knew him just from the funeral home business and I  
2 always found him to be a very polite and compassionate  
3 gentleman who really did see his profession as really  
4 more of a ministry for folks. He thought very highly of  
5 Mr. Eggers.

6 But he said after John died and his mother died,  
7 things started going downhill for him. He was still  
8 employed at the funeral home. His father died when he  
9 was 18 years old, so...

10 And he has two brothers, but he had not seen his  
11 brothers since his mom's funeral. He paid for her  
12 funeral, but the brothers said that they would help but  
13 they haven't, so that was a great financial burden upon  
14 him as well.

15 About the same time his home was broken into and  
16 his pet cat got out. And around that time -- around all  
17 this time, so he had his home broken into, his mother  
18 died, Mr. Eggers died, and he started abusing alcohol,  
19 Judge. And all of this just piled up and piled up and  
20 piled up.

21 He's working at the funeral home. He's writing  
22 contracts for prepaid services. He is not receiving  
23 what he believed to be the proper payment for those.  
24 And based on his alcohol abuse, based upon his financial  
25 problems, it just got worse and worse. And finally he

1 felt that he was really being taken advantage of by  
2 coming in on his day off and so he decided to quit, but  
3 about a month later he made a decision to go over to the  
4 funeral home that day.

5 Every time I talk to him, Judge -- and by the  
6 way, there's been three people visiting him in jail and  
7 I'm one of them. The other one is his pastor. The  
8 other one is a friend from way back. That's it. No  
9 family or anything has visited him. After his parents'  
10 death, really his family was the funeral home folks.  
11 But Mr. Greene made the decision to go in there that  
12 day.

13 But every time I've talked to him about it,  
14 Judge, he has cried. Every time I go see him he cries.  
15 It was fully his intention, Judge, that day to go in and  
16 either shoot himself or have the police do it after he  
17 shot somebody else. It's not how it happened though.  
18 And eventually he got to the point where he thought  
19 where surrendering would be best. And he did. He was  
20 fully cooperative with the police. He followed their  
21 instructions. He did not resist arrest. He got in the  
22 back of the car. He gave a full statement to the  
23 police.

24 Your Honor, sometimes these are the cases that  
25 are the hardest. You've got upset people on both sides.

1 You've got upset clients, you've got upset victims, but  
2 he just had a lot going on in his life and he didn't  
3 think there was any other way out. Unfortunately I wish  
4 he had chosen a different path. And at this point he  
5 does as well, but here we are today, Judge.

6 We're just asking for Your Honor to give this a  
7 lot of consideration with what you heard today and that  
8 Your Honor fashion a sentence that is appropriate and  
9 merciful towards Mr. Greene. I believe he would like to  
10 say a few things as well.

11 THE COURT: Yes, sir.

12 THE DEFENDANT: All that I can say, Your Honor,  
13 is I'm deeply sorry for what I've done. All the things  
14 that have built up for me to be at this point I'm very  
15 sorry. And I didn't plan on the things happening, but  
16 life doesn't always give you what you need or what you  
17 want. And I certainly am sorry to Ms. Eggers and  
18 Gerald. I never intended to hurt them in anyway. It's  
19 just things just bottled up and I just made the wrong  
20 decision.

21 THE COURT: Does he have any criminal record?

22 MR. BARNETTE: Your Honor, I believe you have it  
23 up there, Your Honor. I believe he has two DUI's and a  
24 PDC, Your Honor.

25 ORDER OF THE COURT

1           THE COURT: Mr. Greene, with all the things that  
2 are going on in this day and time, disgruntled employees  
3 coming in with weapons and killing people, and most the  
4 time they -- a lot of times they kill themselves and  
5 they hope the police will kill them, I guess, death by  
6 cop, whatever you want to call it, but any imagination  
7 as to what happens to the people inside the facility  
8 when that's going on and the jam, when the gun jams, the  
9 gun goes off, and the gun jams, otherwise everyone there  
10 could have been killed, whether you're killed or not,  
11 any thought to these people or what they're gonna go  
12 through, what they're gonna do now and are gonna  
13 continue to go through as a result of your actions,  
14 you're gonna get revenge or do whatever you're gonna do,  
15 I mean, I don't understand that.

16           But I know the great fear that had to go on, on  
17 behalf of the victims in this case who was sitting there  
18 waiting to get shot and killed. And you would have  
19 killed him if the gun hadn't jammed.

20           And then, of course, you'd be looking at actual  
21 murder in this case instead of just attempted murder in  
22 this case. And I, you know, I can understand some  
23 mitigation here on your behalf now. And you worked  
24 there for 30 years, or Ms. Eggers said she knew you for  
25 30 years, and so I consider that in your favor. Nothing

1 happened in all that time.

2 At the same time, I certainly understand what  
3 the victims went through and will go through. It's not  
4 gonna stop today. And I certainly understand that. But  
5 be that as it may, I don't think you deserve the maximum  
6 sentence in this case under all the facts and  
7 circumstances in this case, but I do think you deserve a  
8 serious sentence in this case and that I'm going to  
9 impose.

10 In case number 2018-GS-42-06802, Gregory Scott  
11 Greene, having pled guilty to attempted murder, the  
12 sentence of the court is he be committed to the State  
13 Department of Corrections for a determinate term of 20  
14 years. His sentence will run concurrent. He's given  
15 credit for 228 days of jail time.

16 Case number 2018-GS-42-06803, Gregory Scott  
17 Greene, having pled guilty to kidnapping, non-sexually  
18 related, the sentence of the court is the same as the  
19 previous sentence. That is 20 years to run concurrent.  
20 Again, it's not sexual related. Give him credit for  
21 time served.

22 In case number 2018-GS-42-06802A, Gregory Scott  
23 Greene, having pled guilty to possession of a weapon  
24 during the commission of a violent crime. The sentence  
25 of the court is he be sentenced to the State Department of

1 Corrections for a determinant term of five years. This,  
2 I understand, is to run consecutive to the other two  
3 sentences in this case. Thank you.

4 MR. BARNETTE: Thank you, Your Honor. Thank you,  
5 Your Honor, for doing the plea.

6 THE COURT: Yes, sir.

7 MS. PRICE: Thank you. May I approach briefly?

8 THE COURT: Yes, ma'am.

9 (Court concluded at 12:23 p.m.)

10

11 --- THIS ENDS REQUESTED TRANSCRIPT ---

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## 1 COURT REPORTER CERTIFICATE

2

3 I, the undersigned Julie A. Cendroski, Court  
4 Reporter for the Seventh Judicial Circuit Court of the  
5 State of South Carolina, do hereby certify that to the  
6 best of my ability the foregoing is a true, accurate,  
7 and complete transcript of record of all the proceedings  
8 and evidence introduced in the hearing and/or trial of  
9 the captioned case, relative to appeal, in the Court OF  
10 General Sessions for Spartanburg County, South Carolina,  
11 on the 24th day of June, 2019.

12 I do further certify that I am neither of kin,  
13 counsel, nor interest to any party hereto.

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s/Julie A. Cendroski  
Julie A. Cendroski  
Circuit Court Reporter  
Seventh Judicial Circuit

FORM 5

STATE OF SOUTH CAROLINA )

County of SPARTANBURG )

GREGORY SCOTT GREENE )  
Full name and prison number (if any) of Applicant )

330642

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2019CP 4204320

APPLICATION FOR  
POST-CONVICTION RELIEF

FILED  
2019 DEC -9 PM 5:52  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COOPER

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in handwritten or typewritten, signed by the applicant and verified (notarized), and it shall be in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention 386-REDEMPTION WAY, McCOMB COMMUNITY CTR, Jct. McComb, SC 29210
2. Name and location of Court which imposed sentence SPARTANBURG COUNTY COURT HOUSE
3. Name(s) of co-defendant(s) (if any) NO
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 18-65-42-6802 - ATTEMPTED MURDER - COURT I;
  - (b) POSSESSON OF A WEAPON DURING COMMISSION OF A VIOLENT CRIME - COURT II

(c) 18-BS-47-1803 KIDNAPPING

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 6/24/19 KIDNAPPING / 20 yrs

(b) 6/24/19 ATTEMPTED MURDER / 20 yrs

(c) 6/24/19 KIDNAPPING LETTER CAME, 5-YRS

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence? No

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A  
ii. N/A  
iii. N/A

(b) the result in each such Court to which you appealed:

i. N/A  
ii. N/A  
iii. N/A

(c) the date of each such result:

i. N/A  
ii. N/A  
iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to results:

i. N/A  
ii. N/A  
iii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

(b) N/A

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CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. OXLEY

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(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) 1. INADEQUATE ASSISTANCE OF COUNSEL.
- (b) 2. SUBJECT MATTER JURISDICTION 4. COURT LACKED JURISDICTION.
- (c) 3. SOUTH CAROLINA LAWS, MISSING THE GREAT SEAL. 1993 ACT No. 184

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) COUNSEL FAIL TO INVESTIGATE CHARGES, AND PREPARE FOR CASE.
- (b) THE 1993-94- ACT No. 184 / 1995 ACT No. 7 NOT MARKED WITH GREAT SEAL.
- (c) THE LAWS AND STATUTES ON VIOLENCE WITHIN IN SERVICE TIME FOR TODAY. ARTICLE 3, SECTION 1, IN SUFFICIENT EVIDENCE TO EXCISE PLEA FOR ATTEMPT MURDER, AND KIDNAPPING.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. \_\_\_\_\_ N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. \_\_\_\_\_ N/A
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

2019 DEC - 9 PM 3: 24  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

FILED

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

~~N/A~~

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

~~N/A~~

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

~~N/A~~

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

\_\_\_\_\_

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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CLERK OF COURT  
SPARTANBURG COUNTY  
AMT 17200X

FILED

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) NEARLY DISCOVERED EVIDENCE.
- (b) ARTICLE 3 SECTION 18 SOUTH CAROLINA LAW HAS NOT BEEN
- (c) APPLIED WITH THE GREAT SEAL.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea?
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? \_\_\_\_\_
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? \_\_\_\_\_

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. ANDREA LEAH PRICE - SEB 75786 - SEVENTH JUDICIAL CIRCUIT  
Public Defender, 366 - N Church Street, Suite 3000  
Spartanburg, South Carolina, 29303
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. ANDREA LEAH PRICE - Guilty Plea.
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

2019 DEC 19 PM 3:28  
 CLERK OF COURT  
 SPARTANBURG COUNTY  
 AMY W. COX  
 Revised 3/2003

FILED

19. State clearly the relief you seek in filing this application:

VACATE SENTENCE AND CONVICTION.

20. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA

County of SPARTANBURG

VERIFICATION

I, GREGORY SLOTT GREENE, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Gregory Slott Greene

SWORN to and subscribed before me this 18th day of November, 2019.

Kenneth D. Robinson (L.S.)  
Notary Public

My Commission Expires: 11/13/2024



Revised 3/2003  
2019 DEC -9 PM  
FILE  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, GREGORY SCOTT GREESE, hereby apply for leave to  
proceed in this action without prepayment of fees or costs or security therefor. In support of my  
application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof. -

Gregory Scott Greese  
Applicant

SWORN or affirmed to and subscribed before me this  
14 day of November, 2019.

Karen D. Peterson  
Notary Public

My Commission Expires: 11/13/2024



**FILED**  
2019 DEC -9 PM 5:24  
CLERK OF COURT  
SPARANBURG COUNTY  
AMY W. COX

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Gregory S. Greene, #380642  
Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2019-CP-42-04320

**RETURN AND MOTION FOR A  
MORE DEFINITE STATEMENT**

NOW COMES the Respondent, moving for a more definite statement and making its return to the application for post-conviction relief (hereafter "PCR") filed on December 9, 2019 by Gregory S. Greene (hereafter "the Applicant"). Respondent respectfully offers the following in support of its Return:

**I. Procedural History**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its December 2018 term, the Spartanburg County Grand Jury indicted Applicant for attempted murder and possession of a weapon during a violent crime (2018-GS-42-6802) and Kidnapping (2018-GS-42-6803). Applicant was represented by Assistant Public Defender Andrea L. Price. Seventh Circuit Solicitor Barry J. Barnette represented the State. On June 24, 2019, Applicant appeared before the Honorable Lee S. Alford, circuit court judge, and pled guilty as indicted to all offenses without any negotiations or recommendations. Judge Alford sentenced Applicant to twenty years' imprisonment to be served concurrent. Applicant did not pursue a direct appeal.

FILED  
2020 MAR -9 AM 10:28  
CLERK OF COURT  
SPARTANBURG COUNTY  
AMY W. COX

## II. Statement of Facts

Applicant was a recently fired, former employee of Eggers' Funeral Home. (Plea Tr. 16-17). On November 8, 2018, he entered the business's building before start time, with an AR-15, using a key given to him while he was still employed. (Plea Tr. 17). He turned off the alarm system and sat in the lobby until the Mr. Gerald Hutchins (hereafter "the victim") appeared. (Plea Tr. 17). When the victim entered the building, the Applicant raised his gun at him, pulled the trigger, and the rifle misfired, ultimately hitting either the floor or a clock. (Plea Tr. 17-18). Applicant told the victim if he called the police he would shoot him. (Plea Tr. 19). He also threatened to leave the building to shoot another former co-worker. (Plea Tr. 19). That said, the victim contacted another employee through text about the situation, and police were contacted and arrived on scene shortly thereafter. (Plea Tr. 19-20). Video documentation exists regarding this scene. (Plea Tr. 18). The police surrounded the Applicant and took him into custody before he could flee. (Plea Tr. 20-21). After being Mirandized, the Applicant confessed. (Plea Tr. 20-21). An AR-15 was found in the Applicant's truck and a misfired shell casing or bullet was found in the building. (Plea Tr. 21).

FILED  
 2018 MAR -9 AM 10:22  
 CLERK OF COURT  
 SARTANBURG COUNTY  
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## III. Current Action Before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Defense counsel was ineffective because:
  - a. "[c]ounsel failed to investigate charges and prepare for case."
  - b. "[t]he 1993-94 Art. No. 184/1995 Art. No. 7 is not affixed with the Great Seal."
  - c. "[t]he laws and statutes are void regarding what I am serving time for today"
  - d. "[i]nsufficient evidence to [accept] plea."

The relief Applicant requests is a "vacate[d] sentence and conviction."

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the Applicant's case, the Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of additional relevant information.

#### IV. Argument

##### *Ineffective Assistance of Counsel, Generally*

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the Applicant must show that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 684 (1984). *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Supreme Court's two-pronged test outlined in *Strickland v. Washington*.

Pursuant to the first prong in the *Strickland* analysis, the applicant must first prove that counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by the preponderance of the evidence<sup>1</sup> that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant" and the scope limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate

<sup>1</sup> As per Rule 71.1(e) SCRCF

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assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 295. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2010) (quoting *Strickland*, 466 U.S. at 697).

Regarding guilty pleas specifically, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). The PCR applicant’s right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness inherently included in the plea’s judicial procession. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original

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proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

***Failure to Investigate Charges and Prepare for Case***

*Strickland* makes clear that defense counsel “has a duty to make reasonable investigations to make a reasonable decision that makes particular investigations unnecessary.” 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim’s validity is evaluated for “reasonableness [under] all the circumstances” with “a heavy measure of deference to counsel’s judgments” applied. *Id.* Counsel is required to, at minimum, “interview potential witnesses and make an independent investigation of the facts and circumstances of the case”, *Ard v. Catoe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 456, 1461 (S.D.Fla.1986), *aff’d*, 828 F.2d 670 (11th Cir.1987)), including “aggressively examin[ing] all the government’s forensic evidence and conducting analyses of other available forensic evidence.” *Id.* (quoting *American Bar Association Guidelines for The Appointment And Performance Of Defense Counsel In Death Penalty Cases*, reprinted in 31 Hofstra L.Rev. 913, 1015 (2003)).

That said, counsel is not obligated to “investigate lines of defense that he has chosen not to employ at trial.” *Strickland*, 466 U.S. at 682 (quoting *Washington v. Strickland*, 693 F.2d 1243, 1255 (5th Cir. 1982)). Further, “[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Here, Applicant asserts ineffective assistance of counsel due to Counsel’s alleged failure in investigating charges and case preparation. That said, he failed to state with any specificity how

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Counsel was deficient in this regard. Thus, it is impossible for the Respondent to discern how exactly the Applicant believes Counsel was ineffective. A more definite statement is thus required, from the Applicant and through counsel, regarding this matter.

However, what the Respondent is aware of concerning Counsel's performance indicates her performance was not deficient. When asked about his attorney's performance at the plea hearing, he stated that the attorney discussed everything with him, including witnesses and defenses available, and admitted he was satisfied with his attorney's performance. (Plea Tr. 11-12). This indicates the attorney performed a satisfactory job inconsistent with the ineffective assistance of counsel allegation. That said, a more definite statement is needed to verify this assumption.

#### *The Great Seal*

Applicant alleges there is no visible impression of the Great Seal on the following Acts of which he was convicted: 1993 Act No. 184 and 1995 Act No. 7.

Our Supreme Court has held absolute literal compliance is not essential to valid legislation, but substantial compliance is sufficient. *Smith v. Jennings*, 67 S.C. 324, 45 S.E. 824 (1903). Furthermore, under the enrolled bill rule, an act is properly passed when ratified by the presiding officers of the General Assembly, approved by the Governor, and enrolled in the Office of Secretary of State. *Medical Soc. of South Carolina v. Medical Univ. of South Carolina*, 334 S.C. 270, 278, 513 S.E.2d 352, 356 (1999); *Beaufort County v. Jasper County*, 220 S.C. 469, 487, 513 S.E.2d 421, 430 (1951); *State v. Town Council of Chester*, 39 S.C. 307, 17 S.E. 752, 755 (1893) ("when the bill . . . is deposited in the department of state, according to law, its authentication as a bill that has passed congress is complete and unimpeachable).

Other jurisdictions have upheld acts challenged as invalid because there was not strict compliance with a constitutional provision. See *Taylor v. Wilson*, 22 N.W. 119 (Neb. 1885)

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(finding an act was not unconstitutional when the president of the senate did not sign it as required by the state's constitution); *Commr's of Leavenworth Co. v. Higginbotham*, 17 Kan. 62 (Kan. 1876) (“[T]he mere failure of the president of the senate to do his duty cannot have the effect to invalidate the law.”).

Additionally, our Supreme Court has upheld the appointment of an officer whose commission lacked the Great Seal. *State v. Toomer*, 7 Rich. 216, 229, 41 S.C.L. 216, 229 (1854). In *Toomer*, the Court explained if the State excused the delinquency of the officer and cured the defects, then the title has related back to the time of the election. *Id.* Moreover, section 2-7-45 of the South Carolina Code states:

The Code of Laws of South Carolina, 1976, which contains the permanent laws of general application through the 1975 session of the General Assembly and which was presented to the members of the General Assembly during the 1977 session is hereby adopted as the Code of Laws of South Carolina, 1976, and is declared to be the only general statutory law of the State as of January 1, 1976.

Our Supreme Court has held codification of an act will cure a constitutional defect, and is part of the general statutory law of the State. *S.C. Tax Comm'n v. York Elec. Co-op. Inc.*, 275 S.C. 326, 333, 270 S.E.2d 626, 629-30 (1980). The Acts Applicant currently challenges had substantial compliance with the requirements and were codified into the 1976 Code. Therefore, these laws are enforceable, and Applicant's allegation lacks merit.

The missing Great Seal is not grounds to nullify the law the Applicant was convicted under, nor a valid reason to allow Applicant to withdraw his plea and remand the case to the lower court. By entering a guilty plea, Applicant waived his right to present any and all defenses that he may have had, and he cannot raise them now in his current PCR application, especially since the missing Great Seal is not itself a valid reason to grant relief.

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***“Insufficient Evidence to Accept Plea”***

Applicant alleges he did not have sufficient enough evidence to accept the plea voluntarily and knowingly. An applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel’s advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). To establish voluntariness and knowingness, the record must establish that the applicant had a full understanding of the charges against him and the consequences of taking a plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000).

Respondents respectfully request a more definite statement in this matter because the Applicant’s allegation regarding insufficient evidence to accept the plea remains unsupported by specific facts or evidence. That said, what the Respondent does know indicates that the plea was valid. Counsel made Applicant aware of the consequences of the plea and the elements of the crimes pled to. (Plea Tr. 6). The Applicant was told, by the Court, of the maximum sentence attached to each crime and stated he understood this information. (Plea Tr. 8-9). He conceded he knew the rights he was giving up and that he was voluntarily pleading guilty. (Plea Tr. 11-12). Again, when asked about his attorney’s performance at the plea hearing, he stated that the attorney discussed everything with him, including witnesses and defenses available, and admitted he was satisfied with his attorney’s performance. (Plea Tr. 11-12). Applicant freely and knowingly accepted the plea at the plea hearing after being fully informed of the charges against him. This indicates that there was sufficient evidence to accept the plea. That said, a more definite statement is needed to verify this assumption.

Here, the Applicant has failed to demonstrate entitlement to post-conviction relief based upon the allegations above. However, these allegations probably raise questions of fact the

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record does not conclusively refute. Thus, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

#### V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding the Applicant’s allegations. Applicant alleges that plea counsel was constitutionally ineffective because of a “failure to investigate charges and prepare for case” and “[there was] insufficient evidence to accept plea”. That said, it does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing with be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blanchard v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

*Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain

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statement of the facts showing that the pleader is entitled to relief.”

Respondent moves pursuant to Rule 12(e), SCRCF, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

#### VI. Denial of All Other Allegations

Each and every other allegation in the Applicant’s post-conviction relief application not explicitly admitted, qualified, or explain in this Return is hereby denied by the Respondent.

#### VII. Assertion of Rights to Notice of Amendments, Experts

The Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, the Applicant’s court appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity under Rule 1(a) SCRCF and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Cl. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases, . . . we have refused to excuse the pleading and

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issue-preservation requirements that apply in all civil cases.”); *Love v. State*, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCF (explaining how to amend a pleading). Pursuant to § 17-27-150 of the South Carolina Code of Laws, applicants may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

[Conclusion and Signature Line on Following Page]

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**VIII. Conclusion**

WHEREFORE, Respondent respectfully requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
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March 6, 2020

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State of South Carolina	)	
	)	
County of Spartanburg	)	
Gregory S. Greene,	)	2019-CP-42-04320
	)	
Plaintiff,	)	
	)	
v.	)	Transcript
	)	
The State of SC,	)	of
	)	
Defendant.	)	Post-conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Date: September 13, 2021

Time: 11:12 a.m.

Location: Spartanburg County Courthouse

180 Magnolia Street, Spartanburg, SC 29306

Reported by  
Amber Payne, CVR

## APPEARANCES

Presiding: The Honorable William A. McKinnon

For the Plaintiff: Rodney Richey, Esq.  
Richey and Richey Injury Attorneys  
33 Market Point Drive  
Greenville, SC 29607

For the Defendant: William Ray, Esq.  
Thirteenth Circuit Solicitor's Office  
305 E North Street, Ste. 325  
Greenville, SC 29601

Also Present: Andrea Price, Esq.  
Seventh Circuit Public Defender  
202 N. Petty St., Ste. A  
Gaffney, SC 29340

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## EXHIBITS

There were no exhibits marked during this hearing.

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PROCEEDINGS

THE COURT: Madam Court Reporter, all set?

THE COURT REPORTER: Uh-huh.

THE COURT: Yes, ma'am -- or yes, sir.

MR. RAY: I'll be taking this one, Your Honor.

May it please the Court. This is the "Matter of Mr. Gregory S. Greene vs. the State of South Carolina." We're here under Case Number 2019-CP-42-04320. Mr. Greene is currently incarcerated in the Department of Corrections.

He was indicted back in December of 2018 for attempted murder and possession of a weapon during the commission of a violent crime, as well as kidnapping. He was represented by Ms. Andrea Price, and the case was prosecuted by Solicitor Barry Barnette.

On June 24th, 2019, he appeared before Judge Alford, and pled guilty as indicted to all -- all -- all the offenses without any recommendations or negotiations. Judge Alford then sentenced him to 20 years imprisonment to be served -- served concurrently. He did not pursue a direct appeal. He filed his application on December 9th, 2019.

The State made its return and moved for a

1 more definite statement and, as of right now,  
2 I don't believe we have received any formal  
3 written allegations from Mr. Greene's counsel  
4 and I do have a copy of materials and will let  
5 you look at them.

6 THE COURT: What relief is the State  
7 requesting today?

8 MR. RAY: Well, Your Honor, I believe that if  
9 Mr. Richey would just state his allegations on  
10 the record, we're ready to proceed.

11 THE COURT: Okay.

12 MR. RICHEY: And, Your Honor, I'm more than  
13 willing to do that. My client -- his  
14 allegation is his lawyer did not discuss a  
15 jury trial with him. That he was charged with  
16 kidnapping and the State could not prove  
17 kidnapping and that the lawyer did not  
18 effectively try to pursue a plea agreement for  
19 him.

20 THE COURT: It's that his lawyer did not  
21 discuss a jury trial?

22 MR. RICHEY: Uh-huh.

23 THE COURT: And the second part about the plea  
24 was -- was what?

25 MR. RICHEY: The lawyer did not pursue a plea

1           -- a better -- I use the phrase "better plea  
2           offer" for him. That he did not discuss that  
3           with the prosecutor's office, and that the  
4           lawyer did not discuss with him the kidnapping  
5           charge. And he, generally -- his position is  
6           generally that Counsel was ineffective because  
7           he did not represent him in a zealous fashion.  
8           THE COURT: Okay. But he pled guilty to  
9           kidnapping, so he -- he pled guilty to a  
10          charge that his attorney hadn't discussed with  
11          him?

12          MR. RICHEY: He pled guilty to kidnapping, but  
13          he -- it's his position that it was -- he  
14          should not have been charged with kidnapping,  
15          and that Counsel should have not advised him  
16          to plea to that charge.

17          THE COURT: Okay. I'll be happy -- go ahead  
18          and call your witness, Mr. Richey.

19          MR. RICHEY: Okay. I'll call Mr. Greene.

20                         (WHEREUPON, the witness was sworn.)

21                                 DIRECT EXAMINATION

22          BY MR. RICHEY:

23          Q        Sir, would you state your name, please?

24          A        Gregory Scott Greene.

25          Q        And, Mr. Greene, are you in the Department of

- 1           Corrections right now?
- 2    A    Yes, sir.
- 3    Q    And what are you in the Department of Corrections  
4           for?
- 5    A    Attempted murder, kidnapping, and possession of a  
6           firearm.
- 7    Q    Okay. And who represented you on those charges?
- 8    A    Andrea Price.
- 9    Q    Okay. And did you have a trial or plead guilty?
- 10   A    No, sir.
- 11   Q    Huh?
- 12   A    What do mean?
- 13   Q    Did you have a trial or did you plead guilty?
- 14   A    I pled guilty.
- 15   Q    Okay. And you filed an application for post-  
16           conviction relief because you think that Ms. Price  
17           did not effectively represent you, correct?
- 18   A    Yes, sir.
- 19   Q    Okay. And what charges did you get convicted of?
- 20   A    I got convicted of attempted murder --
- 21   Q    Uh-huh.
- 22   A    -- and kidnapping.
- 23   Q    Okay. And did you discuss those cases with -- with  
24           your lawyer?
- 25   A    To some degree, but she didn't fully explain it to

1 me, or I -- I felt she didn't fully explain the --  
2 the circumstances of what -- what was going on.

3 Q Okay. Let's give -- let's just give a brief  
4 factual -- brief factual statement on what  
5 happened. Okay. Where did this occur, this  
6 incident?

7 A When did it occur? November 8th.

8 Q Where?

9 A Where? My former employment.

10 Q And what type of business was it?

11 A It was a mortuary.

12 Q Okay. And you were supposed to have gone there  
13 that day; is that correct?

14 A Sir?

15 Q Tell me what happened.

16 A Okay. I -- I went there. I -- I don't -- I don't  
17 exactly know what my intentions were. They -- they  
18 weren't to hurting anybody. I -- I was just angry  
19 and -- and mad, and so I let my -- let  
20 circumstances, I guess, get the best of me. And I  
21 went there with the -- with a gun. I did have a  
22 gun, and --

23 Q You were upset about an employee issue, right?

24 A Well, that among other things. They -- the -- the  
25 -- my former employer actually owed me a -- you

1 know, a bunch of money where I had wrote a bunch of  
2 preneeds, which is prearrangements for -- for a  
3 funeral. And I was --

4 THE COURT REPORTER: Excuse me, sir.

5 THE WITNESS: Yes.

6 THE COURT REPORTER: Can you repeat that? Is  
7 what the prearrangements for a funeral, can  
8 you repeat that word that you just said?

9 THE COURT: Mr. Greene, can you pull your mask  
10 down --

11 THE WITNESS: I'm sorry.

12 THE COURT: -- the court reporter is having  
13 trouble hearing you. That's okay.

14 Q Your prearrangement, go ahead and tell about that.

15 A Yes, sir. I -- I wrote almost a million dollars  
16 worth of prearrangement, which is preneed funerals,  
17 which is prepaid and before the actual death  
18 occurred. And they were -- the -- she -- the owner  
19 was supposed to give you like 3 percent of -- of  
20 the actual service. Say if it was \$15,000 I would  
21 have gotten 3 percent of the service, but which I  
22 never received. They -- they kept on saying that  
23 they was gonna pay me, and I never received that.

24 Q Okay. So you went there and unfortunately you had  
25 a gun, correct?

- 1 A (No response.)
- 2 Q Okay. And was there a gentleman there at the --
- 3 when you got there? Was anybody there when you got
- 4 there?
- 5 A No, sir.
- 6 Q Okay. Did anybody come while you were there?
- 7 A Yes, sir.
- 8 Q Okay. And -- and who was that?
- 9 A It was Gerald Hutchins.
- 10 Q Okay. And did he work there at the funeral home?
- 11 A Yes, sir.
- 12 Q Okay. And the issue -- one of the issues in the
- 13 case is you were charged with his kidnapping,
- 14 correct?
- 15 A Yes, sir.
- 16 Q And do you believe that -- that you fit the
- 17 elements of kidnapping?
- 18 A I do not, sir, because Gerald actually had entered
- 19 the building on at least two occasions that I know
- 20 of -- actually exited and then he came back.
- 21 Q Okay. So -- so you're saying when he came there,
- 22 he was free to go about his business?
- 23 A Yes, sir.
- 24 Q Okay. And -- and so you believe that you did not
- 25 prevent him from moving or anything?

1 A Yes, sir. That's --

2 Q Okay.

3 A -- correct.

4 Q And that you didn't do anything with the gun to  
5 prevent him from leaving, correct?

6 A No, sir.

7 Q Okay. Did he talk to the police?

8 A Yes, sir.

9 Q Did he call anybody?

10 A Yes, sir.

11 Q And when did he call them?

12 A Actually, while he was still in the building.

13 Q And while you were there?

14 A Yes, sir.

15 Q So he had use of his cell phone and all that,  
16 correct?

17 A Yes, sir.

18 Q Okay. Now, you pled guilty to kidnapping, right?

19 A Yes, sir.

20 Q Can you tell me why you pled guilty if you didn't  
21 do anything to restrict his movement?

22 A Well, actually, the lawyer came to visit me the day  
23 before the court date and said that she -- she  
24 didn't believe that I should plead guilty to the  
25 kidnapping because she had spoken with her

1 colleagues and they -- they didn't think that I  
2 should plead guilty. And she was saying -- said  
3 that she would call the solicitor that afternoon or  
4 that evening and talk with him about it and she  
5 came back the day of the court and said that if I  
6 didn't plead guilty to the kidnapping charge that I  
7 would be charged with burglary also and kidnapping.

8 Q You'd be charged with burglary?

9 A And kidnapping, yes, sir.

10 Q Okay. And did she discuss with you why you'd be  
11 guilty of the burglary?

12 A Not really, sir. Now, I didn't -- I didn't really  
13 understand what the -- the only -- the only thing  
14 that I did understand is I was going to be charged  
15 with two charges instead of one.

16 Q Okay. And so you chose to -- to plead guilty to  
17 those two charges?

18 A To the one.

19 Q To the one charge? Okay.

20 A Instead of -- instead of both of them.

21 Q Okay. Well, this attempted murder, can you tell me  
22 what that extended from? Was that the employee  
23 there and the gun deal?

24 A Yes, sir. I, actually -- I guess -- I guess you  
25 could say I pointed the -- the firearm at the door

1 -- toward the door, and the -- the gun didn't fire.

2 Q And it what? Say it again.

3 A And it did not fire.

4 Q Okay. Did -- well, did -- did you try to pull the  
5 trigger or anything?

6 A I -- yes, sir.

7 Q Okay. But you -- you didn't do in the direction of  
8 that gentleman --

9 A No, sir.

10 Q -- or anything, correct?

11 A No, sir.

12 Q Okay. And you believe that your lawyer should try  
13 to pursue a better plea offer, correct?

14 A Yes, sir.

15 Q Okay. And did you discuss that with her?

16 A Actually, no, sir. I did not.

17 Q Did y'all discuss a plea offer at all?

18 A No, sir.

19 Q You didn't?

20 A No, sir.

21 Q Well, tell me why you pled.

22 A Well, actually, the way that I understood the  
23 situation was I was going to be charged for the  
24 full amount, which is -- I -- I think the  
25 kidnapping charge carried 30 years, and the

1 attempted murder carried 30 years. I was going to  
2 be charged the entire amount if I didn't plead  
3 guilty.

4 Q So if you didn't plea, you thought you were going  
5 to get 65 years?

6 A Yes, sir.

7 Q Okay. Did you talk to your lawyer about a jury  
8 trial any -- on any of these charges?

9 A (Shakes head from side to side.)

10 Q You've got to answer yes or no, so she can take --

11 A No, sir.

12 Q Okay. At any point, did you want a jury trial?

13 A Well, I -- I may have, but if -- if I had thought  
14 about it a little bit more than what I did but it  
15 was just, you know, "This is what we're gonna do,"  
16 so I just went ahead and -- and took the -- I  
17 guess --

18 Q Okay.

19 A -- the -- the best path.

20 Q So you -- you don't believe that your lawyer  
21 effectively represented you, right?

22 A Yes, sir.

23 Q Okay. And on -- in this transcript -- I'm going to  
24 ask you, in this transcript, I got Page 11, Line 21  
25 through 25, you told the judge you were satisfied

- 1 with your lawyer. Why'd you tell the judge that?
- 2 A I wasn't thinking clearly. I -- and -- and I -- I
- 3 can't answer that. I've never actually been in --
- 4 put in that position, and I --
- 5 Q Okay.
- 6 A -- I really didn't know, you know, what to say, to
- 7 be honest with you.
- 8 Q And you think -- you're thinking this particular
- 9 case, the lawyer could have helped you get a better
- 10 plea offer, right?
- 11 A Yes, sir. I feel that she could have pointed me in
- 12 a better direction than what I took.
- 13 Q You're going to have to hold your head up and speak
- 14 toward the --
- 15 A She --
- 16 Q -- microphone there.
- 17 A I feel that she could have give me a better way to
- 18 go, or -- or offered a better way for me to go than
- 19 what I -- what I actually took because I -- like I
- 20 say, I really wasn't too knowledgeable about what
- 21 was going on.
- 22 Q Okay. And did -- did you know anything about the
- 23 case law or the law on kidnapping at the time?
- 24 A No, sir.
- 25 Q You didn't?

1 A No, sir. All -- all that I know that -- it -- it  
2 said that you were holding a person that -- against  
3 his will or something to that effect, and I -- I  
4 don't feel like I -- I did that because -- you  
5 know, because he was moving freely the whole -- the  
6 whole time, plus he was texting.

7 Q And -- and you didn't do anything with that gun to  
8 prevent his movement, correct?

9 A No, sir.

10 Q Okay.

11 MR. RICHEY: Thank you. And answer any  
12 questions the Attorney General may have.

13 THE COURT: Actually, I -- I have a  
14 question --

15 THE WITNESS: Yes, sir.

16 THE COURT: -- for you, sir.

17 THE WITNESS: Yes, sir.

18 THE COURT: Sir, I'm looking at the transcript  
19 and I don't -- okay, this is Page 21, Lines 10  
20 to 14, Mr. Barnette says, "Kidnapping, Your  
21 Honor, is basically, you know, he couldn't  
22 leave. He told him, he said, 'You know I will  
23 kill you if you call the police or whatever.'  
24 And he held him there against his will." And  
25 then you say that you agreed with what the



- 1 Q -- appointed?
- 2 A She was appointed.
- 3 Q She was appointed?
- 4 A Yeah.
- 5 Q Okay. Did she come with materials of discovery or  
6 documents or anything?
- 7 A Not that particular day.
- 8 Q Okay. Did she at some point later?
- 9 A Yes, sir. She, actually, came -- I believe it was  
10 at the preliminary hearing, which I showed up to  
11 the courthouse for, and -- but she said that it  
12 wouldn't do any good to actually have a preliminary  
13 hearing, in other words.
- 14 Q Okay. And did she discuss all of the -- the  
15 evidence against you in this case?
- 16 A She just -- she just said what I was charged with.
- 17 Q Okay. And she told you were charged with  
18 kidnapping?
- 19 A Yes, sir.
- 20 Q Did she tell you what that entailed?
- 21 A No. Not --
- 22 Q She didn't --
- 23 A -- really --
- 24 Q -- explain it to you?
- 25 A -- no. No. She didn't.

- 1 Q Did you ask her questions about the charges?
- 2 A Well, I -- at -- at that particular point, no, sir.
- 3 I didn't really because I -- I didn't really know
- 4 exactly what they entailed, or, you know, the
- 5 consequences of it were.
- 6 Q Okay. Did -- did she tell you you had a right to
- 7 go to trial?
- 8 A I think -- I think she did, but she said that it
- 9 wouldn't do any good because of the -- the actual
- 10 facts that were all -- that were against me,
- 11 according to the solicitor.
- 12 Q Okay. And did you recall the judge at your plea
- 13 hearing telling you you had a right to go to trial?
- 14 A I think he may have.
- 15 Q Okay. But, knowing that, you still wanted to plead
- 16 guilty?
- 17 A And -- and, here again, the only -- only reason
- 18 that I did that because they -- they were going to
- 19 ahead and -- the way I understood it, I was going
- 20 to be charged with the full time -- the full 60
- 21 years.
- 22 Q Okay.
- 23 A I guess, I pled guilty to what they were.
- 24 Q Okay. I just want to make sure I'm understanding
- 25 you correctly. You pled guilty because you didn't

1 want to go to trial and face a greater sentencing  
2 risk, right? More time; you wanted to avoid that?

3 A Well, yeah. I was -- I was told that I would get  
4 the full -- full amount unless -- unless I pled  
5 guilty to what -- to that initial charge.

6 Q Okay. And did you discuss that -- who told that?

7 A My attorney.

8 Q Your attorney did? Okay. And did she advise you  
9 to plead guilty? Did she tell you that was in your  
10 best interest?

11 A Yeah. Pretty much.

12 Q Okay. Now, what time of day did you enter into  
13 this -- this funeral home?

14 A It was in the morning?

15 Q What -- roughly -- was it dark outside?

16 A No.

17 Q It was daytime? Did you work there at the time?

18 A No, sir.

19 Q You -- were you fired, or did you quit prior to  
20 this?

21 A I -- I quit because every -- every day that I ever  
22 had off or every -- anytime that I -- I was  
23 supposed to be off, I was -- I was always called  
24 back in to -- to do something that, basically,  
25 nobody else wanted to do because they're -- you

1 know, in -- in the funeral business you'll get  
2 trauma cases or things that -- that other embalmer  
3 or whatever didn't want to do, and they'd call me  
4 in to do it.

5 Q Okay. You brought a gun with you?

6 A (Nods head up and down.)

7 Q What kind of gun was it?

8 A It was an AR-15. I --

9 THE COURT REPORTER: (To the witness) Could  
10 you answer yes or no, please? Thank you.

11 With the head nodding --

12 MR. RAY: Make sure you say yes or no.

13 THE WITNESS: I'm sorry. Go ahead.

14 MR. RAY: When you answer the questions  
15 just --

16 THE WITNESS: Okay.

17 MR. RAY: -- verbally --

18 THE COURT REPORTER: Can we go back to the  
19 "Did you bring the gun with you?"

20 MR. RAY: Yeah.

21 THE COURT REPORTER: Because I didn't hear an  
22 answer there.

23 MR. RAY: Yeah.

24 Q So you did bring a gun with you, correct?

25 A Yes, sir.

1 Q And what kind of firearm was it?

2 A It was an AR-15.

3 Q A long rifle?

4 A Yes, sir.

5 Q Okay. Was it loaded?

6 A Yes, sir.

7 Q Thirty-round magazine?

8 A Yes, sir.

9 Q And did you pull the trigger --

10 A Yes, sir.

11 Q -- at any point? Were you pointing it at someone

12 when you pulled --

13 A No. Not at someone; at the door.

14 Q Okay. The door that somebody walked in?

15 A Yes, sir. Not actually at him.

16 Q Okay. And what was the name of the -- the

17 gentleman that you shot at?

18 A I didn't shoot at him.

19 Q Oh, that -- that was in the room at the time?

20 A Gerald Hutchins.

21 Q And he worked there, correct?

22 A Yes, sir.

23 Q Okay. Did -- did he leave the scene while you were

24 still there?

25 A He left the building, yes, sir.

- 1 Q Okay. Before the police apprehended you?
- 2 A Oh, yes, sir.
- 3 Q Okay. How long about -- in -- in your -- your  
4 memory did this take?
- 5 A Probably, anywhere from 15-20 minutes.
- 6 Q Okay. Before he left after he got there?
- 7 A Well, he -- he left and come back, then left,  
8 again.
- 9 Q Okay. Did he call the police?
- 10 A Yeah.
- 11 Q He did? Okay. Now, did you recall your attorney  
12 telling you anything about a plea agreement?
- 13 A No, sir.
- 14 Q Did you ask her about getting anything dismissed or  
15 reduced?
- 16 A I did, but she said that -- I -- I forget exact --  
17 the exact words, but -- and, basically, what I can  
18 remember is, you know, if -- if -- if I didn't take  
19 the open plea, that I would be charged with the  
20 full amount.
- 21 Q Okay. And you admit to committing this crime; the  
22 attempted murder?
- 23 A No, sir.
- 24 Q You didn't commit the attempted murder?
- 25 A Well, I -- "attempted murder," in my opinion, would

1 be to actually shoot and hurt somebody.

2 Q Okay. What about possession of a weapon during the  
3 commission of a violent crime?

4 A Well, I had a gun. I had a gun.

5 Q Okay. And you say you did not commit the  
6 kidnapping?

7 A No, sir. I don't -- I don't see how it could be  
8 with -- with him moving freely.

9 Q Okay.

10 MR. RAY: No further questions, Your Honor.

11 THE COURT: (To Mr. Richey) Any redirect?

12 MR. RICHEY: No other questions.

13 THE COURT: Thank you, sir. You may step  
14 down.

15 (WHEREUPON, the witness was excused.)

16 MR. RICHEY: (To the Court) We call Ms.  
17 Price.

18 (WHEREUPON, the witness was sworn.)

19 DIRECT EXAMINATION

20 BY MR. RICHEY:

21 Q Ma'am, please state your name, please.

22 A Andrea Price.

23 Q And, Ms. Price, where are you employed?

24 A Seventh Circuit Public Defender's office.

25 Q And were you employed there on June 24th, 2019?

- 1 A I was.
- 2 Q And did you represent Mr. Greene?
- 3 A I did.
- 4 Q Okay. You've been in the courtroom, I'm going to  
5 go over these issues with you kind of, hopefully,  
6 in an organized manner. Well, since the -- the  
7 basic facts what -- of what he testified; is that  
8 what happened? Just he went there with a gun -- so  
9 basic facts, correct?
- 10 A Yes.
- 11 Q Okay. Well, let's get to the kidnapping. It's --  
12 it's his position that he did not prevent the  
13 gentleman from moving, and, therefore, he should  
14 not have pled to kidnapping. Can you tell me why  
15 you believe it was in his best interest to plead to  
16 kidnapping?
- 17 A Well, the kidnapping case, in my professional  
18 opinion, is fairly weak. However, he did enter the  
19 building with a firearm and the gentleman did come  
20 to the sentencing and say that he did threaten to  
21 kill him if he called the police. As -- as, you  
22 know, a practicing defense law (verbatim), too, you  
23 don't have to physically have custody of somebody  
24 for it to be a kidnapping. And, also,  
25 unfortunately, I thought that these -- these folks

1           were very, very sympathetic. You don't get much  
2           more innocent than a person who's just going to  
3           work in the morning, minding their own business,  
4           and you walk in and -- and there's a former  
5           employee there with a -- with a gun.

6                        They were also very involved in this case.  
7           They showed up in mass to the plea and were fully  
8           cooperative with the police and during the course  
9           of this -- this case.

10    Q       And -- and did you believe that he could have -- he  
11           said that he might get charged with burglary. Do  
12           you believe that -- that they had a case to be able  
13           to charge him with burglary?

14    A       Oh, absolutely. And Barry Barnette told me that if  
15           he didn't plea, he was going to directly indict him  
16           for burglary.

17    Q       Well, do you know what degree?

18    A       It would have to be second, violent.

19    Q       Okay.

20    A       It couldn't be first because this is not a  
21           dwelling.

22    Q       Okay. And you discussed that with him?

23    A       Yes. In fact, I called Barry on -- I believe it  
24           was on a Sunday, I have his cell phone number, and  
25           I talked to him about this and then I took -- and I

1           went back to Mr. Greene.

2    Q       Okay.  And the attempted murder, you heard the  
3           testimony from Mr. Greene, he said that he did not  
4           point the gun at the individual, is -- is -- is  
5           that a correct statement?

6    A       Correct statement of what happened or correct --

7    Q       Yes.

8    A       No.

9    Q       Was -- was that Mr. Greene's position all the  
10           time --

11   A       It -- yeah.  Yes.  It was.

12   Q       -- during the case that was his position?

13   A       Yes.  Yes, sir.

14   Q       And looking at the evidence, did the evidence  
15           substantiate that?

16   A       Not in my opinion, no.

17   Q       Okay.  And so it was your position that he should  
18           plea to the attempted murder?

19   A       It was my -- yes.  It was.

20   Q       Okay.  Did he ever discuss with you about a jury  
21           trial?

22   A       He was -- it -- it --

23           THE WITNESS:  Beg the Court's indulgence while  
24           I get my notes.

25           MR. RICHEY:  Okay.

1 A We did talk about a jury trial. I -- I started  
2 representing him back -- at that winter, and went  
3 to see him over the course of my representation.  
4 He advised me, when I saw him, that he absolutely  
5 did not want to go to trial.

6 Q He did not?

7 A He did not.

8 Q Okay. Did -- so in terms of -- he wanted to get a  
9 -- a plea offer in the case?

10 A Yes. He did.

11 Q And did you -- the offer he got, did you talk to  
12 Barry, the solicitor and some of the other folks up  
13 there to try to get him a -- a favorable -- I use  
14 the word "favorable" -- plea offer?

15 A I did, and Barry was -- was not amenable to that --

16 Q Okay.

17 A -- Mr. Barnette.

18 Q And so you -- do you think the offer that he got  
19 was reasonable?

20 A He -- he really didn't get an offer.

21 Q Okay. I'm saying from -- okay. Put it this way,  
22 do you believe that he should have pled to this  
23 case -- to these cases?

24 A Considering what he was looking at and the type of  
25 folks and the evidence that'll be against him and



1 THE COURT: Mr. Ray?

2 CROSS-EXAMINATION

3 BY MR. RAY:

4 Q Ms. Price, how are you?

5 A Good morning.

6 Q How long have you been practicing law?

7 A Oh, gosh. Six, seven -- almost 15 years.

8 Q Okay. And how much of that has been criminal  
9 defense?

10 A The entirety of it.

11 Q The entirety? When did you first come to meet Mr.  
12 Greene?

13 A I met Mr. Greene right after I got his case, so  
14 that would have been late November or early  
15 December of 2018.

16 Q Okay. And did you meet him at the jail where he  
17 was being held, or --

18 A I can't remember if it was at the jail or at the  
19 courthouse. I think it may have been at the  
20 courthouse, initially.

21 Q Okay. And about how many times did you meet with  
22 him during the course of this case?

23 A Oh, I know I met with him in December. Let's see.  
24 One, two, three, four, five, six -- it looks like  
25 half a dozen or so.

- 1 Q Okay. And did you receive discovery by the time  
2 you met with him?
- 3 A Honestly, I don't remember.
- 4 Q Okay.
- 5 A From that initial -- initial hearing back in  
6 December, probably not.
- 7 Q Okay. At some point, did you receive discovery in  
8 this case and discuss it with him?
- 9 A Yes.
- 10 Q Okay. And if you would just briefly, please,  
11 outline -- or describe the evidence against Mr.  
12 Greene?
- 13 A I believe I gave him a copy. He -- I got the --  
14 well, actually, I have it right here, he -- there  
15 were witness statements, there were body camera  
16 videos, there's a full statement from him on video,  
17 pictures, statement -- witness statements, police  
18 reports, that sort of thing.
- 19 Q Okay. And the statement from him, was that made  
20 after he was arrested?
- 21 A Yes. It was. He was in the back of the -- of a  
22 patrol vehicle.
- 23 Q Okay. Indicating that he had done what he was  
24 accused of doing?
- 25 A Yes, sir.

- 1 Q Okay. And you stated, on direct examination, that  
2 he did not request a jury trial?
- 3 A No. He did not.
- 4 Q And you made -- did you make him aware of his right  
5 to a jury trial?
- 6 A Yes. I did.
- 7 Q Okay. Did you discuss with him of possible  
8 defenses that he might have should he pursue a jury  
9 trial?
- 10 A Yes, sir. That's -- that's something we would have  
11 discussed.
- 12 Q Okay. But no plea offers were -- were extended by  
13 the State?
- 14 A The only offer that I ever got from Mr. Barnette  
15 was, "Pick your judge."
- 16 Q Okay.
- 17 A And in the 7th Circuit that's -- that's a tough  
18 thing to do sometimes.
- 19 Q All right. And so Judge Alford was actually the  
20 one who took the plea; is that correct?
- 21 A He was. He was visiting from York County at the  
22 time.
- 23 Q And -- and in those discussions with Mr. Barnette,  
24 did the possible burglary charge come up?
- 25 A Yes. It did. I -- I called Barry, I said, "Barry,

1           how about dismissing this -- this burglary charge?"

2           And he would not do it. He said, "No."

3    Q       Okay. Now -- I'm sorry -- just to clarify, he

4           wasn't indicted for burglary; is that correct?

5    A       Yeah.

6    Q       He was indicted for kidnapping and --

7    A       Excuse me. Excuse me.

8    Q       -- attempted murder?

9    A       Excuse me. I'm sorry. Yes. He was indicted for

10          kidnapping -- he was directly indicted for

11          kidnapping, and then when I was -- could talk to

12          him about the possibility, you know, of dismissing

13          the kidnapping and he'd plea to -- to the other, he

14          said, "Well, if he goes to trial, I'll just

15          directly indict him for burglary, too."

16   Q       Okay. Now, as far as you are aware, the victim in

17          this case who gave rise to the kidnapping charge,

18          was -- did he come and go from the room where Mr.

19          Greene had pointed the gun on him?

20   A       Yeah. As I recall, yes.

21   Q       Okay.

22   A       Because at one point, Mr. Greene went back and sat

23          down on a couch.

24   Q       Okay. And how many times did Mr. Greene fire the

25          gun?

- 1 A Once --
- 2 Q Just once?
- 3 A -- that I recall, yeah.
- 4 Q Did he attempt to fire it another time?
- 5 A Yes. He did.
- 6 Q Okay.
- 7 MR. RAY: Court's indulgence for just one
- 8 moment, Your Honor.
- 9 THE COURT: Certainly.
- 10 Q Did you ever believe Mr. Greene didn't understand
- 11 the discussions that you were having with him?
- 12 A No. That never seemed to be an issue for him. I
- 13 met with him on several -- several occasions. He
- 14 always seemed to understand what was going on. He
- 15 -- he -- he did cry a lot, understandably, and
- 16 seemed very depressed, but I never thought that he
- 17 did not understand what I was conveying to him.
- 18 Q Okay. And did you have an opportunity to speak
- 19 with witnesses against him, prior to his plea?
- 20 A I -- I did not speak to the witnesses, no. They --
- 21 they gave full statements.
- 22 Q Okay. Was there was any -- any other lead that you
- 23 investigated that might have benefited him, should
- 24 he go to trial?
- 25 A I didn't think there was anything else that -- that

1 was out there.

2 Q Okay.

3 MR. RAY: No further questions, Your Honor.

4 THE COURT: Ms. -- Ms. Price, what -- I can't  
5 remember your exact language, but you said  
6 something to the effect of you thought the  
7 kidnapping case was legally weak. What did  
8 you mean --

9 THE WITNESS: Weak.

10 THE COURT: -- what did you mean by that?

11 THE WITNESS: Well, like I said the -- (To the  
12 court reporter) well, can you hear me?

13 THE COURT REPORTER: No. Can you speak up  
14 just a little bit, please?

15 THE WITNESS: Okay. Is it okay if I just --

16 THE COURT: Yes. Absolutely, face the court  
17 reporter.

18 THE WITNESS: -- face the court reporter? He  
19 was walking around, coming -- leaving the  
20 room, coming back out, but at the same time he  
21 was threatened. That's a hard concept for a  
22 lot of people to understand, laypeople --  
23 people that would have been jury members.  
24 That's why I approached Mr. Barnette about the  
25 possibility of dismissing that charge.

1 THE COURT: And with that view of the charge  
2 taken into account, was it still your  
3 professional judgment that he should plead  
4 guilty to both the kidnapping and the  
5 attempted murder charges?

6 THE WITNESS: Yes, sir. Because based on my  
7 experience I thought that it probably would --  
8 he probably, under the circumstances, would  
9 get a concurrent sentence.

10 MR. RICHEY: I've got a couple questions, Your  
11 Honor.

12 THE COURT: Yes, sir. Mr. Richey.

13 REDIRECT EXAMINATION

14 BY MR. RICHEY:

15 Q He -- he fired a gun -- he tried to shoot a gun one  
16 time, and it didn't go off, correct?

17 A Right. That was at the doorway as -- as Gerald was  
18 coming into the -- to the funeral home.

19 Q Okay. All right.

20 MR. RICHEY: (To the Court) No other  
21 questions.

22 THE WITNESS: Okay.

23 THE COURT: Any redirect from the State?

24 MR. RAY: No further questions, Your Honor.

25 THE COURT: Thank you, Ms. Price.

1 THE WITNESS: May -- may I be excused to go  
2 back to Gaffney?

3 THE COURT: Yes, ma'am.

4 THE WITNESS: Thank you.

5 (WHEREUPON, the witness was excused.)

6 MR. RICHEY: No other witnesses, Your Honor.

7 THE COURT: Any witnesses from the State?

8 MR. RAY: Nothing further from the State.

9 THE COURT: Mr. Richey?

10 CLOSING ARGUMENTS

11 BY MR. RICHEY:

12 MR. RICHEY: Thank you, Your Honor. It's Mr.  
13 Greene's position that he shouldn't have pled  
14 to the -- to the kidnapping. I understand  
15 what the counsel's testimony was, but his  
16 position was the guy was free to leave. He  
17 walked in and out, talking on the phone.

18 He also believes that on the attempted  
19 murder that he didn't have the intent to shoot  
20 anybody, although he -- although the testimony  
21 was the gun was fired. It is his position  
22 that he didn't have any intent to hurt  
23 anybody, he went there, he was upset about the  
24 whole thing, and he -- you know, he's afraid  
25 he took it too far, but it's his position that

1 he didn't mean to try to hurt anybody.

2 THE COURT: All right. Yes, sir, Mr. Ray?

3 CLOSING ARGUMENTS

4 BY MR. RAY:

5 MR. RAY: Your Honor, as far as the kidnapping  
6 is concerned, the State's position is that  
7 there is sufficient evidence to convict him in  
8 trial of kidnapping, and the solicitor, when  
9 the Court asked him, he stated on the record  
10 that, "The victim didn't feel free to leave  
11 after he walked in the -- the place where he  
12 works and somebody fired an AR-15 at the door  
13 he just walked through."

14 Now, Mr. -- Mr. Greene pled guilty to it.  
15 He never indicated -- and, I mean, he was  
16 informed of his right to go to trial. He  
17 hasn't indicated here today that, but for his  
18 counsel's advice to him on the -- the  
19 kidnapping issue or any of these other issues,  
20 that he would have insisted on his right to go  
21 to trial, so the State's position is that he  
22 has not proven his burden of showing prejudice  
23 from his counsel's performance.

24 And, frankly, his counsel is not  
25 deficient in any way. She -- she got him a

1 reasonable sentence, I think, given the  
2 circumstances. He was not extended a plea  
3 offer, which certainly there's no  
4 constitutional right to a plea offer, and she  
5 -- she indicated today that she advocated for  
6 one, but was just simply unsuccessful in -- in  
7 getting an offer from the solicitor.

8 So we would request -- respectfully  
9 request that this Court deny relief on Mr.  
10 Greene's post-conviction relief application.

11 THE COURT: Any reply, Mr. Richey?

12 MR. RICHEY: We'll stand on our original  
13 argument.

14 THE COURT: Thank you, Counsel. I'll take  
15 this under advisement.

16 MR. RICHEY: Thank you, Your Honor.

17 MR. RAY: Thank you, Your Honor.

18 (Whereupon the within hearing was  
19 concluded at 11:50 a.m.)

20 (\*This transcript may contain quoted material.  
21 Such material is reproduced as read or quoted  
22 by the speaker.)

STATE OF SOUTH CAROLINA )  
 ) CERTIFICATE  
 COUNTY OF SPARTANBURG )

Be it known that Amber J. Payne took the foregoing proceeding and hereby attests:

that I was then and there a notary public in and for the State of South Carolina-at-large;

that the witnesses were first duly sworn to testify to the truth, the whole truth, and nothing but the truth, concerning the matter in the controversy aforesaid;

that the foregoing transcript represents a true, accurate, and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

that I am neither a relative nor an employee of any of the parties hereto, nor of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

that, if a recording of an event was supplied by another party for purposes of transcription and I was not present during that event, the foregoing pages were transcribed to the best of my skill and ability; additionally, any identifications of speakers were provided to me by the party supplying the recording;

that, in the event of a nonappearance by the witness, the foregoing details for the nonappearance are accurate.

In witness thereof, I have hereunto affixed my signature and title.

Amber J. Payne, CVR

Date: 2/25/2022  
 Notary public for South Carolina  
 My commission expires August 12, 2029

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 Gregory S. Greene, SCDC No. 380642 )  
 Applicant, )  
 v. )  
 State of South Carolina )  
 Respondent. )

IN THE COURT OF COMMON PLEAS )  
 FOR THE SEVENTH JUDICIAL CIRCUIT )  
 Case No. 2019-CP-42-04320 )  
**ORDER OF DISMISSAL** )

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This matter comes before the Court by way of Applicant Gregory S. Greene's December 9, 2019 application for post-conviction relief. Respondent made its return on March 6, 2020, moved for a more definite statement, and requested an evidentiary hearing. A hearing was convened at the Spartanburg County Courthouse on ~~August~~ <sup>September</sup> 13, 2021. Applicant was present at the hearing and represented by Attorney Rodney Richey. Assistant Attorney General William H. Ray, of the South Carolina Attorney General's Office, represented Respondent. *WAM*

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel Andrea L. Price also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, the Clerk of Court's records, a copy of the original plea transcript, and the pleadings. This Court has reviewed the record, observed the witnesses, heard the testimony, and finds as follows:

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted for attempted murder, possession of a weapon during the commission of a violent crime, and kidnapping by the Spartanburg County Grand Jury at its December 2018 term. (2018-GS-42-6802; -6803). Applicant was represented by Assistant Public Defender Andrea Price

and Solicitor Barry J. Barnette prosecuted the case. On June 24, 2019, Applicant appeared before the Honorable Lee S. Alford and entered a guilty plea, as indicted, to all offenses without any negotiations or recommendations. Judge Alford sentenced Applicant to twenty years' imprisonment, to be served concurrently. Applicant did not pursue a direct appeal.

## II. FACTUAL HISTORY

Applicant was a recently fired, former employee of Eggers' Funeral Home. (Tr. 16-17). On November 8, 2018, he entered the business's building before start time, with an AR-15, using a key given to him while he was still employed. (Tr. 17). He turned off the alarm system and sat in the lobby until the Mr. Gerak Hutchins (hereafter "the victim") appeared. (Tr. 17). When the victim entered the building, the Applicant raised his gun at him, pulled the trigger, and the rifle misfired, ultimately hitting either the floor or a clock. (Tr. 17-18). Applicant told the victim if he called the police he would shoot him. (Tr. 19). He also threatened to leave the building to shoot another former co-worker. (Tr. 19). That said, the victim contacted another employee through text about the situation, and police were contacted and arrived on scene shortly thereafter. (Tr. 19-20). Video documentation exists regarding this scene. (Tr. 18). The police surrounded the Applicant and took him into custody before he could flee. (Tr. 20-21). After being Mirandized, the Applicant confessed. (Tr. 16). An AR-15 was found in the Applicant's truck and a misfired shell casing or bullet was found in the building. (Tr. 21).

## III. CURRENT APPLICATION

In his initial PCR application, Applicant alleged that he was being held in custody unlawfully for the following reasons:

1. Defense counsel was ineffective because:
  - a. Counsel failed to investigate charges and prepare for case.
  - b. The 1993-1994 Art. No. 184/1995 Art. No. 7 is not affixed with the Great Seal.

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- c. The laws and statutes are void regarding what I am serving time for today.
- d. Insufficient evidence to accept plea.

At the evidentiary hearing Applicant, through counsel, stated that he was proceeding forward on the following allegations:

- 1. Ineffective Assistance of Counsel
  - a. Counsel did not discuss Applicant's right to a jury trial
  - b. Counsel did not discuss Applicant's kidnapping charge
  - c. Counsel did not effectively pursue a plea agreement
  - d. Counsel did not present a zealous defense.

Applicant did not present any evidence or argument on his initial allegations, therefore they are deemed abandoned and will not be addressed herein.

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. §17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

##### *Ineffective Assistance of Counsel*

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

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In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable."). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding

would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before

examining the prejudice suffered by the defendant as a result of the alleged deficiencies; it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

***Failure to Discuss Applicant's Right to a Jury Trial***

Applicant alleges that his counsel provided ineffective assistance of counsel when she failed to advise him of his right to a jury trial. This allegation is without merit.

Due process requires that guilty pleas be entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). A defendant must be made aware of the right to a jury trial, as well as other constitutional rights. *Boykin*, 395 U.S. 238. The knowing and voluntary waiver of the constitutional rights may be accomplished by a colloquy with the Court and the defendant, between the Court and defendant's counsel, or both. *Pittman*, 337 S.C. at 599, 524 S.E.2d at 625.

Applicant testified that Counsel did not represent him well enough because she failed to explain certain circumstances of his case properly. He acknowledged that he was told by the judge at his plea hearing that he had a right to a jury trial. He stated that he entered his guilty plea because he thought he would get 65 years if he went to trial. He stated he did not want a jury trial, but may have if he had thought about it more. The plea transcript shows that Applicant was informed, and indicated his understanding, of his right to a jury trial. (Tr. 10-11).

Counsel testified that she represented Applicant as his public defender. She stated that she spoke with Applicant about a jury trial, informed him of his rights, and was told that he absolutely did not want to go to trial. Instead he wanted to enter a guilty plea.

This Court finds that Applicant's allegation that his counsel failed to inform him of his right to a jury trial is without merit. Counsel's testimony indicates that she did inform Applicant

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of his right to a jury trial. The plea court also specifically informed him of this right at the plea hearing, he indicated that he understood, and chose to continue with the plea. Therefore, counsel's performance was not deficient in this regard. Furthermore, the testimony shows that any possible confusion about his right to a trial was not what caused him to enter the plea. His own testimony indicates that he did not want to proceed to trial and entered his guilty plea because of his sentencing exposure at trial. Applicant has failed to meet his burden of proving prejudice. As such, the allegation must be denied and dismissed with prejudice.

*Failure to Discuss the Kidnapping Charge*

Applicant alleges that counsel provided ineffective assistance of counsel when she failed to discuss his kidnapping charge with him. This allegation is without merit.

Applicant testified that he pled guilty to attempted murder, kidnapping, and possession of a weapon during the commission of a violent crime. He stated that he did not believe the kidnapping charge fit the facts of his case, because he did not prevent the victim from leaving the scene. He acknowledged that he held a gun to him, but stated that he did not use it to prevent movement, and pointed out that the victim called the police. He acknowledged that he entered the guilty plea to the kidnapping charge. Applicant stated that his lawyer visited him prior to the plea and told him that he would be charged with burglary and kidnapping if he did not enter the plea to the kidnapping charge. He stated that he did not understand that charge either, but chose to enter his plea to kidnapping. He stated that he did not know anything about the law on kidnapping at the time. He acknowledged that the plea court described the elements of kidnapping.

Counsel stated that she believed the State's case for kidnapping was weak, but she did discuss the charge with him and he asked her no questions. She did believe that the State had a case to charge him with a burglary offense, and stated that Applicant would have been charged

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with such an offense if he did not plead guilty. She stated that her advice was for him to enter a guilty plea and avoid the additional charge, and Applicant ultimately agreed. She stated that she attempted to get the State to dismiss the kidnapping charge, but was unsuccessful. She stated that the victim had been walking around the scene during the commission of the crime, and was threatened with a gun. She stated that kidnapping may have been a difficult charge for a jury to understand, but that the plea was nevertheless in Applicant's best interest.

The plea transcript shows that counsel reviewed the allegations in the indictments, and she specifically stated that "[Applicant]'s fully aware of the consequences and the elements of the kidnapping." (Tr. 6, lines 11-16). The record also shows that Applicant was informed that the offense was violent, most serious, non-parolable, and carried up to thirty years' imprisonment. (Tr. 8-9). After the recitation of the facts the plea court asked for clarification on the basis for the kidnapping charge. The exchange was as follows:

Solicitor: Kidnapping, Your Honor, is basically, you know, obviously he couldn't leave. He told him, said, you know, said I will kill you if you call the police or whatever and he held him against his will there, Your Honor.

Court: Okay.

Solicitor: In that case, basically you have to seize somebody and obviously he was seized at that time.

Court: Right.

Solicitor: Even though he was able to get out and text that from that standpoint, he said, you know, you call the police, do anything like that I will kill you. And he shot a bullet, showing that he could shoot the weapon once it had jammed on him from that standpoint.

(Tr. 21, 10-25).

This Court finds that Applicant was made aware of the elements of kidnapping, the consequences, and the factual basis for the State's case against him on that charge. Counsel stated

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at the plea hearing that she informed him of such. She stated at the PCR hearing that while the State's case may have been weak in that regard, it was nevertheless in his best interest to accept the plea. Applicant has not proven that she was deficient in her advice on this point. Furthermore, Applicant has not shown prejudice because he stated that he entered his plea to avoid the risk of additional time and additional charges, not because he was confused about the nature of the kidnapping charge. The allegation must be denied and dismissed with prejudice.

*Failure to Effectively Pursue a Plea Agreement*

Applicant alleges that Counsel provided ineffective assistance because she failed to effectively pursue a plea agreement on his behalf. This allegation is without merit.

A criminal defendant is entitled to effective assistance of counsel during plea negotiations. *Judge v. State*, 321 S.C. 554, 471 S.E.2d 146 (1996). Failure to advise a client of a plea offer often constitutes a gross deviation from accepted professional norms. *U.S. ex rel. Caruso v. Zemsky*, 689 F.2d 435, 438 (3d Cir. 1982).

Applicant testified that he entered his guilty plea upon Counsel's advice, because he did not want to receive additional charges and face additional time. He stated that he had spoken with Counsel about his guilty plea, but never discussed a plea offer. He stated that he did not request a better plea offer. He stated that he did not want a trial but may have changed his mind if he had given it more thought. He stated that his lawyer could have gotten him a better plea offer.

Counsel testified that she had discussed the case with Applicant, reviewed the evidence, and discussed his ability to enter a guilty plea or go to trial. She stated that she spoke with the Solicitor about a plea offer but no offers were made. The State was not amenable to offering anything other than an opportunity for him to pick the judge that presided over the guilty plea. She stated that she attempted to get his kidnapping charge dismissed, but was unsuccessful. She did

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state, however, that she was successful in avoiding an additional burglary indictment by having Applicant enter the plea. She stated that there was nothing in the case that she could have investigated further. Even without a better offer, she stated that the plea was in Applicant's best interest.

This Court finds that Applicant's allegations are without merit. The testimony shows that Counsel sought out a plea offer, was unable to obtain any offers, but was able to fend off an additional charge in exchange for Applicant's guilty plea. She also got the State to allow Applicant to go before the judge of his choice. While these may not be the concessions Applicant now desires, they nevertheless are evidence of her effective plea negotiations. Therefore Applicant has failed to prove his counsel was deficient. Furthermore, Applicant has failed to prove prejudice because he entered his plea to avoid going to trial, not because of any errors counsel made in the plea negotiations process. Applicant has simply failed to produce any objective evidence indicating that Counsel's plea negotiations prejudiced him in any way. On the contrary, the strong evidence against him and the State's intention to pursue additional charges at trial indicates quite the opposite. Counsel's plea negotiations were, as she stated, in Applicant's best interest. Therefore the allegation must be denied and dismissed with prejudice.

***Failure to Present a Zealous Defense***

Applicant alleges that counsel provided ineffective assistance by failing to present a zealous defense. This allegation is without merit.

Applicant testified that he did not believe counsel represented him well enough. As mentioned above, he stated that she did not discuss his right to go to trial and present a defense. Nevertheless, he stated that he did not want to exercise this right at the time. He stated that Counsel initially came to meet with him without any documents, but eventually did review the evidence

with him. He stated that she told him his charges, but did not explain them to him. He acknowledged that he was at the scene of the crime, with an AR-15 loaded with 30 rounds of ammunition, because he was disgruntled about his relationship with his employer. However, he stated that he did not the facts fit the elements of kidnapping or burglary.

Counsel testified that she met with Applicant approximately six times, and reviewed the evidence against him. She stated that there were written statements from witnesses, camera footage, statements Applicant made in the back of the patrol vehicle after he was arrested, pictures, and police reports. She stated that they discussed potential defenses if they were to go to trial. She stated that Applicant did not want to go to trial. She implied that they may have been able to combat the kidnapping charge given the difficulty some juries have understanding its application, but they did not get that far because Applicant chose to enter his plea.

The plea court informed Applicant of his right to go to trial and put forth a defense against the charges. (Tr. 10-11). He indicated that he understood this right and chose to proceed with the plea hearing.

This Court finds that Applicant's claim that Counsel failed to present an adequate defense to be without merit. Applicant entered a guilty plea and knowingly waived his right to present a defense. Counsel's obligation to defend against the indictments does not go so far as to require her to exercise rights on Applicant's behalf that Applicant himself expressly waives in open court. The testimony shows that counsel prepared a defense against these charges with Applicant, considered the likelihood of success, and advised him to enter a guilty plea. This was very likely the proper assessment given the strong evidence the State could have presented at trial. In any event, it was objectively reasonable under the circumstances. Therefore Applicant has failed to prove his Counsel was deficient in this regard. Furthermore, Applicant has failed to prove that he was

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prejudiced because, as stated above, he entered his plea to avoid greater sentencing exposure and additional charges, not because he felt Counsel was not properly defending him. The application must be denied and dismissed with prejudice.

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IV. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedure for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 24 day of November, 2021.

  
 WILLIAM A. MCKINNON  
 Presiding Judge  
 Seventh Judicial Circuit

Spartanburg, South Carolina

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WITNESSES

Spartanburg County Sheriff's Office

*[Handwritten Signature]*

ARREST WARRANT NUMBER

2018A4210103426 & 3427

ACTION OF GRAND JURY

~~FILED~~ FEB 07 2019  
FEB 07 2019

*[Handwritten Signature]*  
Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET 18GS-42-6802

The State of South Carolina  
County of Spartanburg  
Barry J. Barnett, Solicitor

COURT OF GENERAL SESSIONS  
[ ] 10 2019 TERM

THE STATE

v.

GREGORY SCOTT GREENE

Indictment for

ATTEMPTED MURDER - COUNT I;  
POSSESSION OF A WEAPON DURING  
COMMISSION OF A VIOLENT CRIME -  
COUNT II

SC Code 16-03-0029; 16-23-490  
CDR Code 3410; 549  
Class FEL-A ; FEL/F

M. ROPE BLACKLEY  
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Spartanburg County



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

INDICTMENT

DEC 07 2018

At a Court of General Sessions, convened on \_\_\_\_\_, the  
 Grand Jurors of Spartanburg County present upon their oath:


**ATTEMPTED MURDER – COUNT I**

That the Defendant, Gregory Scott Greene, did in Spartanburg County on or about November 8, 2018, with intent to kill, attempted to kill Gerald William Hutchins, with malice aforethought, expressed or implied, by attempting to shoot the victim, in violation of Section 16-3-0029, Code of Laws of South Carolina, (1976, as amended).

**POSSESSION OF A WEAPON DURING  
 COMMISSION OF A VIOLENT CRIME – COUNT II**

That the Defendant, Gregory Scott Greene, did in Spartanburg County on or about November 8, 2018 possess or visibly display a firearm or a knife during the commission of a violent crime, to-wit: ATTEMPTED MURDER and/or KIDNAPPING, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 SOLICITOR

WITNESSES

Spartanburg County Sheriff's Department

*[Signature]*

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

DEC 07 2018

*[Signature]*  
Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET # **18-69-42-6803**

The State of South Carolina  
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

DEC 16 2018 TERM

THE STATE  
v.

GREGORY SCOTT GREENE

Indictment for  
KIDNAPPING

SC Code: 18-03-910  
CDR Code: 0005  
Class FEL-A

M. HOFFE BLACKLEY  
2018 DEC 18 PM 3:49  
SHERIFF'S OFFICE  
SPARTANBURG COUNTY  
SOUTH CAROLINA



STATE OF SOUTH CAROLINA )  
                                          )  
COUNTY OF SPARTANBURG )

INDICTMENT

DEC 07 2018

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Spartanburg County present upon their oath:

**KIDNAPPING**

That the Defendant, Gregory Scott Greene, did in Spartanburg County on or about  
November 8, 2018, willfully and unlawfully with criminal intent seize, confine, inveigle,  
decoy, kidnap, abduct or carry away the victim, Gerald William Hutchins, from [REDACTED]  
[REDACTED] Chesnee, SC without authority of law, all in violation of Section 16-  
03-910, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such  
case made and provided.

  
\_\_\_\_\_  
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG  
STATE VS.

Gregory Scott Greene

AKA:

Race: WHITE Sex: M Age: 52

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Inman, SC 29349-8296

DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: Assault / Attempted Murder- Count One (1)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS4206802

A/WW#: 2018A4210103426

Date of Offense: 11/8/2018

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC w/minor 1st or Lowd Act)  §17-25-45

The charge is:  As Indicted,  Lesser included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Barnette Barry SCB13039 Gregory Greene Defendant Andrea Leah Price SCB75786 Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 223

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

* Fine:		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100 -
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25 -
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 310

TOTAL \$ 12875

Clerk of Court/ Deputy Clerk T. Camp  
Court Reporter: J. Cendracki

SCCA/217 (04/2018)

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/B beginning \_\_\_\_\_

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]

Judge Code: 2173

Sentence Date: 6/24/19

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG VS. STATE

Gregory Scott Greene

AKA: [Redacted]

Race: W Age: 52

DOB: [Redacted] S#: [Redacted]

Address: [Redacted]

City, State, Zip: Inman, SC 29349-8296

DL#: [Redacted] SID#: [Redacted]

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death- Count Two (2)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS4206802A

A/WH#: 2018A4210103427

Date of Offense: 11/8/2018

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

CONVICTED OF or PLEADS

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: BARNETTE, BARRY SCB13039 SC Bar# Defendant Price, Andrea Leah SCB75786 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: all sentences this date

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing

Set by SCDPPPS Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Recipient:

Table with 3 columns: Description, Amount, Total. Rows include assessments, surcharges, and probation fees.

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: T. Camp Court Reporter: Julie Cendroski Presiding Judge: Judge Code: Sentence Date: 6/24/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

INDICTMENT/CASE#: 2018GS4206803

AKA: Gregory Scott Greene

A/W#: 2018GS4206803

Race: WHITE Sex: M Age: 52

Date of Offense: 11/8/2018

DOB: SS#: [REDACTED]

S.C. Code §: 16-03-0910

Address: [REDACTED]

CDR Code #: 0095

City, State, Zip: SC 29349-8296

DL#: SID#: [REDACTED]

SENTENCE SHEET

\*CDL Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]

[ ] CONVICTED OF or [X] PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

[ ] NON-VIOLENT [X] VIOLENT [ ] SERIOUS [X] MOST SERIOUS [ ] Mandatory GPS(CSC w/minor 1st or Lewd Act) [ ] §17-25-45

The charge is: [X] As Indicted, [ ] Lesser Included Offense, [ ] Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: [X] Without Negotiations or Recommendation, [ ] Negotiated Sentence, [ ] Recommendation by the State.

ATTORNEY: BARNETTE, BARRY SCB13039 SC Bar# Price, Andrea Leah SCB75786 SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [ ] County Detention Center, for a determinate term of 20 days/months/years/or [ ] under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference. NOT SEXUALLY RELATED

[X] CONCURRENT or [ ] CONSECUTIVE to sentence on:

[X] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 225 days

[ ] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

[ ] Set by SCDPPPS

Obtain GED [ ]

Attend Voc. Rehab. or Job Corp. [ ]

May serve W/E beginning [ ]

Substance Abuse Counseling [ ]

Random Drug/Alcohol testing [ ]

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning [ ]

\$ paid to Public Defender Fund

Other: [ ]

Recipient:

\*Fine: \$

§14-1-206 (Assessments 107.5 %) \$

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100 -

§14-1-211(A)(2) (DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$ 25 -

§14-1-213 (Drug Court Surcharge) \$150 \$

§50-21-114(BUJ Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

[ ] Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk T. Camp

Presiding Judge [Signature]

Court Reporter: Julie Cendras

Judge Code: 2117

Sentence Date: 6/24/19